

COMPANIES AND ORGANIZATIONS

CO1 – Legacy Place Properties, LLP and National Amusements, Inc.

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Established 1896

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August 6, 2014

Electronic Filing

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

**Re: FERC Docket No. CP14-96-000
Algonquin Incremental Market (AIM) Project
Proposed Gas Pipeline, West Roxbury Lateral, Massachusetts**

Dear Secretary Bose:

Please accept this letter as a “placeholder” comment on FERC’s forthcoming Draft Environmental Impact Statement for the above referenced pipeline (the Project) proposed by Algonquin Gas Transmission, LLC (Algonquin). We submit this comment on behalf of Legacy Place Properties LLC (LLP) and National Amusements, Inc. (NAI), which own a retail and theatre complex (the Legacy Place Complex) at Elm Street and Providence Highway in Dedham, Massachusetts. LPP and NAI have fully participated in all Project related proceedings to date, have been acknowledged by Algonquin as “major stakeholders” in the Project, and have formally intervened as parties in interest to the present FERC proceeding.

CO1-1 | Algonquin has engaged LPP and NAI in an ongoing dialogue concerning the management of traffic impacts associated with the construction of its proposed pipeline. The outcome of this dialogue is reflected in the Traffic Management Plan (TMP) filed by Algonquin on May 30, 2014. As stated in the TMP, Algonquin committed to trenchless pipeline construction for some or all of the driveway crossings at the Legacy Place Complex.¹ Subsequent to the TMP, Algonquin informed LPP and NAI that the trenchless driveway crossings would no longer be part of the Project because the alignment of the proposed pipeline

¹ Algonquin’s commitment to mitigate traffic impacts through trenchless construction methods for driveway crossings at the Legacy Place Complex was first advanced in connection with the Project’s review by the Executive Office of Energy and Environmental Affairs under the Massachusetts Environmental Policy Act.

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CO1-1

Section 4.9.5.2 and appendix G of the EIS have been updated to include the revised alignment near the Legacy Place Complex and additional information on potential traffic-related impacts and measures to be implemented to prevent unnecessary delays to the motoring public during construction of the West Roxbury Lateral.

CO1 – Legacy Place Properties, LLP and National Amusements, Inc. (cont'd)

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COURT REPORTERS, PC

Kimberly D. Bose, Secretary
August 6, 2014
Page 2

CO1-1
(cont'd) will be shifted away from the street sideline closest to the Legacy Place Complex. LPP and NAI reserve comment on the revised Project until plans of the new pipeline alignment and a corresponding TMP have been received and reviewed.

CO1-2 This placeholder comment is prompted by our concern that FERC's Draft EIS may be based on an outdated Project plan and, therefore, embody a largely obsolete impact assessment. If this is so, the Draft EIR may not conform with regulations implementing the National Environmental Policy Act (NEPA) which require that all Project alternatives under consideration be comparatively evaluated. 40 CFR 1502.2(e) and 1502.14. Under this circumstance, it may be necessary to complete a revised or supplemental Draft EIS. 40 CFR 1502.9(a) and (c).

CO1-3 LPP and NAI are fully supportive of Algonquin's efforts to revise the pipeline alignment in order to minimize the Project's traffic impacts. Unfortunately, those efforts have resulted in an unexpected and as yet undefined change to the Project and its environmental effects. We believe that this "surprise" can be overcome in due course by continuing the interactive consultative process which Algonquin has adopted under the "Pre-Filing" environmental review approach being used on this Project. LPP and NAI are fully committed to work with Algonquin to achieve a Project that fully addresses its environmental impacts in accordance with NEPA.

Thank you.

Sincerely,



Sanford M. Matathia

cc: Jon Bonsall, Esq.
Jonathan Pearson, Esq.

A1103721.1

CO1-2 See the response to comment FA4-1.

CO1-3 See the responses to comments FA4-1 and CO1-1.

CO2 – Vertical Associates Co.

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2014 SEP -5

Vertical Associates Co.
124 Broad Street
Pawtucket, RI 02860
Tel: 401-729-6000
August 28, 2014

Federal Energy Regulatory Commission
888 First Street
N.E. Room 1A
Washington D.C. 20426
Attn: Ms. Kimberly Bose, secretary

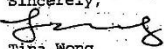
RE: File number NAE-2013-1233
Docket numbers CP14-96-000, PF13-16-000; AIM Project,
Tract: B-1-84
Our property located at 139 Meetinghouse Hill Road,
Franklin, CT; List number 2012 01 0001017

Dear Ms. Bose:

On August 28, 2014, Ms. Cori M. Rose of US Army Corps of Engineers (New England District) instructed us to write to you for any opposition to the above project.

CO2-1 We are vehemently against the relocation and expansion of the Algonquin gas transmission pipeline by Spectra Energy on our property. The proposed new gas pipeline will run through our entire property, from the northern border to the southern border. It is ten times larger than the existing one and will be located more toward the center of the property. This will no doubt deter any form of usage of the land because of the proximity to hazard, not to mention that it will be completely unsafe to put up any habitable building structure. As a result, the value of the property will be totally diminished and therefore, financial hardship to the property owner.

Your kind attention to and documentation of our opposition are deeply appreciated. Also, please kindly acknowledge the receipt of this letter.

Sincerely,

Tina Wong
Vice-president
on behalf of Vertical Associates Co.

Encl: 7 copies of this protest as required

CO2-1

Section 4.9.8 of the EIS discusses the economic impacts associated with the Project, including property values. Algonquin would compensate fully all landowners for any new easements on their properties. The proposed pipeline on land owned by Vertical Associates would be installed within Algonquin's existing right-of-way, in the same location as the existing-replaced pipeline; no additional restrictions to use or development of the property would occur as a result of the Project. Some additional temporary workspace would be located outside the existing right-of-way on Vertical Associates' property; however, impacts associated with these workspace areas would be temporary.

CO3 – Stop the Algonquin Pipeline Expansion

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STOP THE ALGONQUIN PIPELINE EXPANSION (SAPE)

September 18, 2014

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1
Washington, DC 20426

**RE: Algonquin Incremental Market ("AIM") Project:
FERC Docket No. CP 14-96-00**

Dear Secretary Bose:

CO3-1 As an intervenor in the above-referenced proceedings, Stop the Algonquin Pipeline (SAPE), respectfully submits the following initial comments on the Draft Environmental Impact Statement ("DEIS") for the Algonquin Incremental Market ("AIM") Project.¹ For the reasons explained below, the DEIS falls short of what is required under the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4331 *et seq.*, and a revised DEIS must be prepared with a new period for public review and comment on the proposed project to ensure that the FERC satisfies its obligations under NEPA.

CO3-2 On August 6, 2014 the Federal Energy Regulatory Commission ("Commission") issued the DEIS. Although Algonquin has been submitting information relating to the environmental impacts of the proposed Project since February 2014, it has yet to file a number of expressly requested studies, analysis, and other plans that are essential to the public review and governmental decision-making required under NEPA. Until Algonquin provides the Commission with complete information regarding the full suite of environmental impacts caused by the proposed Project, the Commission is in no position to reach any conclusion about the significance of such impacts.

The Commission should insist that Algonquin file the following admittedly missing information, which should then be presented to the public in a Supplemental DEIS:

- CO3-3 • Final conclusion on safety-related conflicts with the Indian Point Nuclear Energy Center not provided (Section 4.12.3);
- CO3-4 • Field Sampling Plan for potential soil contamination not provided (Section 4.2.2.6);
- CO3-5 • Insufficient analysis of impacts to vernal pools in New York (Section 4.4.3.2);
- CO3-6 • Non-saturated wetlands not identified (Section 4.4.4);

¹ SAPE intends to submit a more detailed set of comments on the DEIS prior to the close of period for public comment.

CO3-1 See the responses to comments FA4-1, FA6-5, and SA1-12.

CO3-2 See the response to comment FA4-1.

CO3-3 See the response to comment FA4-25.

CO3-4 See the response to comment SA1-5.

CO3-5 See the response to comment FA4-8.

CO3-6 Appendix K of the EIS has been updated to identify saturated and non-saturated wetlands.

CO3 – Stop the Algonquin Pipeline Expansion (cont'd)

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- CO3-7 | • Compensatory Mitigation Plan not prepared (Section 4.4.5);
- CO3-8 | • Tree survey of Harriman State Park not complete (Section 4.6.1.5);
- CO3-9 | • Alternatives for the Hudson River crossing not prepared (Section 4.4.3);
- CO3-10 | • Final plans for the Catskill Aqueduct crossing not developed (Section 4.3.2.1);
- CO3-11 | • Plans for to address trench dewatering not developed (Section 4.3.2.6);
- CO3-12 | • Survey for the presence of the Indiana bat not complete (Section 4.7.1.2);
- CO3-13 | • Survey for the presence of the northern long-eared bat not complete (Section 4.7.1.3);
- CO3-14 | • Incomplete information on impacts to migratory birds (Section 4.7.2);
- CO3-15 | • Incomplete information on impact to bald eagles (Section 4.7.3);
- CO3-16 | • Survey for the presence of Timber Rattlesnakes not complete (Section 4.7.5.1);
- CO3-17 | • NYSDOS approval of consistency assessment for Hudson Crossing (Section 4.8.4.1);
- CO3-18 | • Design modifications for New York M&R stations not complete (Section 4.11.1.2);
- CO3-19 | • Site Specific construction plan for St. Patrick Church not provided (Section 4.8.5.1);
- CO3-20 | • Site Specific construction plan for Buchanan-Verplanck Elementary not provided (Section 4.8.5.1);

CO3-21 | The above omissions go to the very heart of the question of whether this proposed Project can or should be constructed. By providing a wholly incomplete DEIS for public comment, FERC has put the public and members of SAPE in an uncertain position. For the reasons stated above, we respectfully request that FERC: (1) take no further action with respect to the proposed Project on the basis of the profoundly flawed DEIS; (2) collect the missing information identified in the DEIS; (3) perform the new analysis; and (4) issue a Supplemental DEIS with a new period for review and public comment to ensure that the FERC satisfies its obligations under NEPA.

Respectfully submitted,

Stop the Algonquin Pipeline Extension (SAPE)

CO3-7 See the response to comment FA3-3.

CO3-8 FERC recognizes that a site-specific plan for crossing Harriman State Park (including a tree survey), developed in consultation with the New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP) and Palisades Interstate Park Commission (PIPC) is needed and has requested submittal of the plan prior to the FERC giving approval for a Notice to Proceed for construction of the Project.

CO3-9 See the response to comment SA11-6.

CO3-10 See the response to comment SA11-9.

CO3-11 See the response to comment SA11-10.

CO3-12 See the response to comment SA11-13.

CO3-13 The Northern long-eared bat was surveyed concurrently with the Indiana bat. Algonquin sent the Northern long-eared bat survey results including the proposed avoidance/minimization measures for the species to Lisa Masi at the NYSDEC on September 2, 2014 for review and comment. Sections 4.7.1 and 4.7.1.2 of the EIS have been revised to include the results of Northern long-eared bat surveys along with the results of consultation with the FWS. Any additional avoidance or minimization measures required for the NYSDEC will be addressed during the NYSDEC permitting process.

CO3-14 See the responses to comments FA4-26 and SA11-14.

CO3-15 See the response to comment SA11-15.

CO3-16 See the response to comment SA11-16.

CO3-17 See the response to comment SA1-6.

CO3-18 See the response to comment SA1-7.


CO3-19 See the response to comment SA1-8.

CO3-20 See the response to comment SA1-9.

CO3-21 See the responses to comments FA4-1, FA6-5, and SA1-12.

CO4 – International Union of Operating Engineers Local 825

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September 15, 2014

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

RE: Algonquin Incremental Market Project
FERC Docket CP14-96

Dear Ms. Bose,

My name is Tim Muller, and I am a Business Representative with the Operating Engineers Local 825.

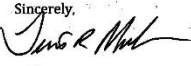
CO4-1 I am writing this to you in support of Spectra Energy's Algonquin Incremental Market or (AIM) Project.

The public comment process for this issue is very important for several reasons. It allows for those residents who would be affected by the project the opportunity to voice their concerns and ultimately have them addressed to their satisfaction. It also allows us, who if the project were to go forward and would be involved in the construction of the project, the ability to introduce ourselves to you. We are working people who are raising families, and live in these areas too.

With safety being vital in everyone's mind, the pipeline and its related aboveground facilities are to be designed, constructed, operated, and maintained to meet or exceed federal safety standards and regulations, with as few peripheral disturbances during construction as possible. Historically, this type of work is one of the most strictly regulated forms of construction there is. We want to assure you that the work related to this project would be done in a safe and professional manner through the specialized training, certifications and skill our dedicated members possess.

In addition to jobs, ultimately this is a project that would help to reduce the cost of natural gas for homes and businesses and would help to meet the high demand for natural gas in the Northeast.

While everyone is very passionate about their views on this matter, I respectfully request that the project be allowed to go forward, giving needed local jobs to local area labor, and enabling an increase to the supply of needed natural gas in the Northeast.

Sincerely,

Timothy R. Muller
Business Representative
Middletown, NY Branch Office

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CO4-1

Comment noted. Safety impacts are addressed in section 4.12 of the EIS. The construction workforce anticipated for the Project is presented in section 4.9.1. The purpose and need of the project is identified in section 1.1.

CO5 – Food and Water Watch, Northeast Region Director, Alex Beauchamp

20140924-4015 FERC PDF {Unofficial} 09/24/2014

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foodwaterwatch

15 September 2014

Public Comments on the Draft Environmental Impact Statement for Algonquin Incremental Market Project (CP14-96-000)

To the Federal Energy Regulatory Commission:

Thank you for the opportunity to offer testimony and comment on the Federal Energy Regulatory Commission's (FERC) Draft Environmental Impact Statement (DEIS) for the Algonquin Incremental Market Project. My name is Alex Beauchamp, and I am the Northeast Region Director at Food & Water Watch, a national consumer rights nonprofit.

CO5-1 Simply put, the DEIS is fatally flawed and must be withdrawn. Others have rightly pointed out many of these flaws. I will focus on the lack of analysis of impact the Project would have on natural gas development and on the Catskill Aqueduct Crossing.

CO5-2 The National Environmental Policy Act (NEPA) requires a full analysis of a project's impacts "whether direct, indirect, or cumulative." Yet, the DEIS omits any substantive discussion of foreseeable gas development, concluding (without discussion) that the resources that may be affected by the Marcellus shale development would not be affected by the Project and that the Project would not be affected by the development in the Marcellus region. The DEIS fails to address the indirect impacts of induced gas development and fails to consider how the environmental impacts of the proposed Project may be cumulated with the impacts of gas development in the region.

CO5-3 The complete absence of analysis around the indirect or cumulative impacts of the Project on natural gas development has clearly deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze any potential impact the project would have on natural gas development.

CO5-4 The DEIS also fails to address potential impacts on the Catskill Aqueduct. The Proposed Stony Point to Yorktown Take-up and Relay segment of the proposed project plans to cross the Catskill Aqueduct, a part of the New York City water supply system. To date, Algonquin has not finalized its site-specific plan for crossing the Catskill Aqueduct and is

CO5-5 still in consultation with the New York City Department of Environmental Protection regarding the crossing and evaluating an alternative route that would relocate the segment to the south.

CO5-6 Algonquin's failure to finalize any site-specific plan for crossing the Catskill Aqueduct has deprived the public of any meaningful opportunity to comment on the proposed Project. Given the obvious importance of the Catskill Aqueduct to the millions of New Yorkers that rely on it for our drinking water, the public must be able to comment on this piece of the Project. A revised DEIS must be prepared for review and public comment to fully examine the extent of any impacts of a planned Catskill Aqueduct Crossing.

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CO5-1 See the response to comment FA4-1.

CO5-2 See the response to comment FA4-24.

CO5-3 See the response to comment FA4-1.

CO5-4 See the response to comment SA11-9.

CO5-5 An updated evaluation of the proposed route for the Catskill Aqueduct crossing is included in section 3.5.2 of the EIS.

CO5-6 See the responses to comments FA4-1 and SA11-9.

**CO5 – Food and Water Watch, Northeast Region Director, Alex
Beauchamp (cont'd)**

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CO5-7 The DEIS is fatally flawed and must be withdrawn. I urge the Commission to withdraw the DEIS, address all outstanding issues, and issue a supplemental DEIS which then must be submitted for public comment.

Sincerely,

Alex Beauchamp
Northeast Region Director
Food & Water Watch
Brooklyn, NY

CO5-7 See the responses to comments FA4-1, FA6-5, and SA1-12.

CO6 – Business Council of Westchester



FERC DEIS PUBLIC COMMENT MEETING ON THE ALGONQUIN INCRREMENTAL MARKET EXPANSION PROJECT

Monday September 15, 2014

CO6-1 My name is John Ravitz, Executive Vice President & Chief Operating Officer of The Business Council of Westchester. I welcome this opportunity to express the Council's strong support for the Algonquin Incremental Market (AIM) expansion project. The demand for natural gas in our region is only growing and projections indicate that this trend will persist for the foreseeable future. This pipeline project will help provide the clean, affordable natural gas that both homes and businesses throughout the Northeast have increasingly come to rely upon, as well as ensure that adequate supplies of natural gas will be available to meet the even greater demand that will exist in the future.

I would like to commend the staff of the Federal Energy Regulatory Commission (FERC) and the cooperating federal, state and local agencies for their thorough review of the AIM project in this Draft Environmental Impact Statement (DEIS).

The DEIS evaluates the impact of the project's construction and operation on many aspects including:

- o Geology, soils, groundwater and surface waters, and wetlands;
- o Vegetation, wildlife and aquatic resources, and special status species;
- o Land use, recreation, special interest areas and visual resources;
- o Cultural resources and socioeconomics which includes transportation and traffic;
- o Air quality and noise; and
- o Reliability and safety.

FERC also evaluated project alternatives as well as the cumulative impacts of the AIM Project with current and foreseeable projects in the area.

The Algonquin expansion project will create both direct and indirect economic benefits for New York State and Westchester County. First and foremost it will increase both state and local tax revenues. During the AIM Project's eighteen months of construction, it is projected the company will spend over \$120 million on their construction payroll alone in New York.

CO6-1

Comment noted. Economic benefits of the Project are presented in section 4.9.9 of the EIS.

CO6 – Business Council of Westchester (cont'd)

CO6-1
(cont'd)

The bulk of those jobs will go to local unionized laborers. Local governments in the Hudson Valley will also see over \$20 million annually in revenues from the AIM Project through their Ad Valorem Tax and additional money will be spent locally on equipment, materials and supplies.

The federal government as well as numerous state and local governments have encouraged the increased use of natural gas because the science is clear: Natural gas is an environmentally preferable alternative to either coal or oil. Due to the fact that its use produces far fewer greenhouse gas emissions it is the more environmentally responsible option. Opposing the increased use of natural gas, which is what opposition to the AIM project ultimately amounts to, really means inadvertently encouraging the continued (and increased) use of coal and oil. Demand for energy will only continue to grow and, since we do not yet possess the technology necessary to meet that increasing demand with renewable energy resources, the rising demand for energy will either be met by increased use of natural gas, or it will be met by the increased use of coal or oil. Incentivizing the use of natural gas by supporting projects like AIM is not only the more environmentally responsible it's also the more economically responsible option. The simple truth is that projects like AIM are the most economical means by which to reduce the rate of climate change.

The Business Council of Westchester reiterates its strong support for the AIM Project and encourages FERC to approve Spectra Energy's permit for the AIM Project.

CO7 – Sierra Club Lower Hudson Group, Gale Pisha



LOWER HUDSON GROUP

c/o George Klein
74 Croton Dam Road
Ossining, NY 10562
(914) 941-2505

**RE: Draft Environmental Impact Statement (“DEIS”) for
Algonquin Incremental Market (“AIM”) Project:
FERC Docket No. CP 14-96-00**

My name is Gale Pisha, and I live in Rockland County. I am speaking tonight for Sierra Club’s Lower Hudson Group, which has about 4,000 members in Westchester, Putnam, and Rockland, the counties through which the AIM pipeline would run in New York State.

- CO7-1 Sierra Club requests that FERC withdraw its flawed DEIS, complete all required studies and conduct the health and safety impact assessments requested by county legislatures and citizens along the route, before re-issuing a supplemental EIS with a new 90 day comment period.
- CO7-3 The present DEIS is not complete. It does not consider important health and safety concerns such as the proximity of the pipeline to Indian Point and two electric transmission lines over two seismic faults or the impacts of emissions along the pipelines and especially from the compressor stations on the health of nearby residents.
- CO7-3 The DEIS fails to mention the contribution of natural gas to climate change, as well. Unburned methane, which leaks from all parts of the shale gas extraction and transmission process, is 86 times more potent a greenhouse gas than carbon dioxide over 20 years, 34 times more potent over 100 years. (http://www.climatechange2013.org/images/uploads/WGIAR5_WGI-12Doc2b_FinalDraft_Chapter08.pdf)
- And burning all the natural gas being carried by the Algonquin pipeline produces carbon dioxide, which is one of the leading causes of climate change.
- CO7-4 For these reasons and because of the pollution hydraulic fracturing causes to water, land, and air, Sierra Club opposes all new fossil fuel infrastructure proliferation.
- CO7-5 The good news is that all this new natural gas infrastructure is not even necessary! A peer-reviewed study by scientists and engineers has showed that New York State can transition off fossil fuels 85% by 2030 and 100% by 2050 using currently available technology. (<http://web.stanford.edu/group/efmh/jacobson/Articles/I/NewYorkWWSEnPolicy.pdf>)
- This study, called the *Wind, Water and Sunlight* plan, will save billions of dollars because people will no longer be getting sick or dying from fossil-fuel driven air pollution.
- The plan will create about three times as many permanent jobs as would be added by the fossil-fuel industry and it will reduce the impact of energy generation on climate change.
- It will lead to greater energy security and more stable energy pricing in the future.

CO7-1 See the responses to comments FA4-1, FA6-5, and SA1-12.

CO7-2 See the responses to comments FA4-25, SA4-2, SA4-1, and SA7-4.

CO7-3 We disagree. Section 4.11.1 of the EIS recognizes methane as a GHG and includes the amount of total GHGs the Project would emit over construction and operation. See the responses to comments FA4-22 and FA4-23 for additional information regarding the Project’s potential benefits to air quality and climate change, and Algonquin’s efforts to minimize methane emissions. As noted in section 4.11.1.1 of the EIS, a global warming potential of 25 was used for methane based upon a 100-year time period to allow for a consistent comparison with air quality regulatory requirements. Further, section 4.13.8 of the EIS addresses the impacts of the Project with respect to climate change.

CO7-4 Comment noted.

CO7-5 Renewable energy sources are, and we expect will continue to be, important in helping to diversify the electricity market and decrease the need for traditional fossil fuel energy sources, but we do not find that these energy sources preclude the need for additional natural gas delivery points or long-term supply. Sections 3.2.1 and 3.2.2 of the EIS discuss federal and state energy conservation programs and initiatives and the existing and growing use of renewable energies. Section 3.2.2 of the EIS has also been revised to address the paper by Jacobson et al.

CO7 – Sierra Club Lower Hudson Group, Gale Pisha (cont'd)

CO7-6 In conclusion, I ask FERC to more fully address the health and safety concerns related to its current DEIS. For a project so vulnerable to many risks, including terrorism, it would really be doing the public a disservice to rubber stamp Spectra's proposal without fully assessing its potential impacts, especially since it's not even needed.

Thank you.

Respectfully submitted September 15, 2014
Gale Pisha
Nanuet, NY 10954
soygale@verizon.net

CO7-6 An assessment of the health and safety concerns related to the Project is provided in sections 4.11 and 4.12 of the EIS. Section 4.12.4 of the EIS addresses terrorism. See the response to comment FA4-1.

CO8 – Community Watersheds Clean Water Coalition

20141003-5210 FERC PDF (Unofficial) 10/3/2014 4:13:43 PM

JAMES BRYAN BACON, ESQ., P.C.

Attorney and Counselor at Law

P.O. Box 575
New Paltz, New York 12561
(845) 419-2338

October 3, 2014

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Jodi M. McDonald, Chief Regulatory Officer
Army Corps of Engineers
Jacob Javits Building
26 Federal Plaza
New York, NY 10278

*Comments on the Draft Environmental Impact Statement (DEIS)
Algonquin Gas Transmission, LLC; FERC Docket No. CP14-96-000; and
Army Corps of Engineers Public Notice Number NAD-2014-00402-EYA*

Dear Msrs. Bose and McDonald,

CO8-1 Algonquin's DEIS comments promise that both its AIM and Atlantic Bridge projects will be "subject to additional requirements provided for in a stormwater pollution prevention plan ("SWPPP")" and that future development of mitigation measures by the New York City Department of Environmental Protection "ensures construction is completed in a manner that protects the watershed and does not result in significant cumulative impacts to the watershed."

However, NEPA requires FERC to "articulate how the mitigation measures will render the adverse effects insignificant" and it is the EIS and not post-NEPA local agency review that must include a thorough evaluation of mitigation options. *O'Reilly v. U.S. Army Corps of Engrs.*, 477 F.3d 225 (5th Cir. 2007).

CO8-2 Therefore, CWCWC reiterates that in order to satisfy NEPA, FERC must complete a supplemental EIS to include those issues noted in our comments on the DEIS rather than deferring substantive environmental review to other permitting agencies.

Respectfully,


James Bacon

CO8-1 Each project, if approved, would be subject to the FERC's erosion control requirements as well as state requirements to minimize erosion and the effects of stormwater runoff. As currently planned, the two projects would be separated in time and since each project would be required to implement temporary and permanent erosion controls including stabilizing and revegetating disturbed soils (see sections 4.2.2 and 4.3.1.7 of the EIS) there would be little potential for cumulative stormwater or pollution impacts. See the responses to comments FA3-5 and SA14-1.

CO8-2 See the responses to comments FA4-1 and SA1-12.

CO8 – Community Watersheds Clean Water Coalition (cont'd)

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CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2014 I served the herewith letter upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated: October 3, 2014.



James Bacon

Attorney for CWCWC

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin

September 16, 2014

Oral Statement, Peter Galvin, Conservation Chair RI Sierra Club

Re: CP14-96-000

Good evening. As a resident of Rhode Island, and Conservation Chair of the Rhode Island Chapter of the Sierra Club, I would like to thank you for your decision to hold this hearing tonight.

My written statement includes a detailed review of key deficiencies of the draft environmental impact statement (EIS) under discussion. I hope the level of detail will help you connect the dots between the EIS requirements and what you will hear tonight from many. I would like to place my full statement in the record, and just summarize for you a few salient points.

CO9-1 First, the RI Sierra Club wants to emphasize to you the need to review this matter carefully before finalizing the EIS, even if that means including another draft and round of comments. Given recent developments, we expect interest in this project to continue to grow, and you are going to be hearing many of the same concerns expressed down the road as you examine other projects. Our statement emphasizes how similar the questions presented here are to those

CO9-1 See the responses to comments FA4-1, FA6-5, and SA1-12.

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

presented by the Keystone pipeline project, notwithstanding that tar sands are not natural gas, and the uncertain outcome of that project should be borne in mind by the Commission as it processes this request.

CO9-2] Second, it is our position that the draft EIS is currently insufficient to meet the requirements of the National Environmental Policy Act (NEPA) because it fails to give full consideration of the information developed in the last few years about the impacts on the environment of natural gas, and the strong international scientific consensus that we must keep most fossil fuels in the ground. The written statement provides you both with some references in this regard, the contents of which I ask be included in the record. Our reading of guidance under the NEPA is that every project that releases more natural gas into the environment must take this into account, no matter how difficult it may be to calculate the contribution made by that specific project. We encourage you to study this information carefully and revise the draft accordingly.

CO9-3] Third, it is our position that the draft EIS is currently insufficient because it fails to fully consider the no action alternative, and in particular the contribution likely to be made by renewable resources in the immediate future. Again, the written statement provides you with references in this regard to include in the

CO9-2 We believe the EIS presents an accurate assessment of the impacts associated with the proposed Project. The use and development of natural gas as a whole is beyond the scope of this document.

CO9-3 Pursuant to its responsibilities under NEPA, we evaluated a number of alternatives including the no-action alternative, energy conservation, renewable energy, and other alternatives (see sections 3.1, 3.2, and 3.3 of the EIS) that meet the current demand for additional natural gas supply.

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

CO9-4 record, and I would also like to include this copy of an article from today's New York Times entitled "Fixing Climate Change May Add no Cost, Report Says." http://www.nytimes.com/2014/09/16/science/earth/fixing-climate-change-may-add-no-costs-report-says.html?_r=0 Thanks to legislation this calendar year, Rhode Island is poised to make a significant leap forward in this regard, and is our strong view that the project under review will serve to delay that effort. Other states in the project area are likewise moving forward.

CO9-5 Finally, it is our position that the draft EIS fails to make the "market case" for moving forward with this project. We believe the case for need remains speculative at this point, and encourage you to look into this more carefully.

CO9-4 Comment noted.

CO9-5 Section 1.1 of the EIS discusses the purpose and need for the Project. Ten separate shippers have signed precedent agreements to ship gas on the AIM Project pipeline; therefore, a characterization of the market need for the facilities is not "speculative."

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

Statement of Peter Galvin, Conservation Chair, Rhode Island Chapter of the Sierra Club,
On the Algonquin expansion proposal draft EIS,
prepared for the FERC hearing, 6:30pm Mapleville, RI, Sept. 16, 2014

My name is Peter Galvin and I am Conservation Chair of the Rhode Island Chapter of the Sierra Club.

CO9-6 It is our opinion that the draft environmental impact statement (EIS) does not meet the Administration's standards for environmental impact statements, and is therefore unlikely to survive review by the Environmental Protection Agency (EPA).

1) EPA review standards.

a) The importance of meeting review standards.

While we are sure you strive to do a good job on every EIS, your expertise is not focused on the environment. That is why the system provides that agency impact statements – including those by otherwise independent agencies --are reviewed by EPA regional offices for compliance with the National Environmental Policy Act (NEPA). Acute public interest in a particular EIS is likely to lead to a closer level of scrutiny by EPA, particularly if this is accompanied by requests from members of Congress. So while the requestor would no doubt like a hasty process, it is important that FERC take the time required to be sure the scope and quality of your analysis is in full accord with the latest rules and guidelines concerning EIS preparation and comprehensiveness.

b) The relevance of the Keystone pipeline experience.

Within the last few years, another agency whose expertise is not in the environmental area faced a similar situation to the one you face here. Because it crossed international borders, the decision on the proposed Keystone oil pipeline fell within the jurisdiction of the Department of State. Yet after years of study, no final decision has been reached. This was in no small part due to the EPA reviews raising questions about the draft environmental impact statement in 2011 [http://yosemite.epa.gov/oeca/webdis.nsf/\(PDFView\)/20110125/\\$file/20110125.PDF](http://yosemite.epa.gov/oeca/webdis.nsf/(PDFView)/20110125/$file/20110125.PDF) and then the revised statement in 2013. <http://www.epa.gov/compliance/nepa/keystone-xl-project-epa-comment-letter-20130056.pdf>

The State Department proposal involved the impacts on the environment of permitting tar sands oil to be transmitted by pipeline. **The issue before you is completely analogous.** Your task is to evaluate whether the transmission of additional natural gas (beyond what is currently being produced and sent to the region) would have significant adverse environmental impacts. For

CO9-6 See the responses to comments CO9-2 and SA2-10.

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

CO9-6
(cont'd) that reason, in developing your draft EIS, I think it is both appropriate and wise to consider whether the shortcomings noted by the EPA about the draft Keystone EIS are also present in your draft.

CO9-7 c) Counting greenhouse gas emissions.

The Executive Summary of the draft states:

"We received numerous comments during scoping for the Project about cumulative impacts associated with development of natural gas reserves (including hydraulic fracturing) in the Marcellus shale region. Activities associated with Marcellus shale development would occur outside of the Project area's region of influence. As a result, the local resources that may be affected by Marcellus shale development would not be affected by the Project, and local resources affected by the Project would not be affected by development in the Marcellus shale region. Impacts associated with the proposed Project in combination with other projects identified within the region of influence would be relatively minor overall." (ES-8)

And in 4.13.8, the draft further states:

Currently, there is no standard methodology to determine how a project's relatively small incremental contribution to GHGs would translate into physical effects on the global environment. Additionally, natural gas emits less CO₂ compared to other fuel sources (e.g., fuel oil or coal).

These arguments fail because of an incomplete analysis of where the leaks of natural gas occur, the assumption that occurrences outside the project area are not to be considered, the contributions such leaks in evaluating the natural gas: coal differential impact on the climate, the difficulty of mitigating these leaks, the failure to consider the localized adverse health consequences of such leaks, and the overall problem of releasing any additional greenhouse gases into the atmosphere in light of the present scientific evidence on climate change. In addition, the market analysis of why these added emissions are necessary is incomplete and incorrect.

* Leaks of methane gas in the production and transmission of natural gas.

We know a lot more now about methane emissions than we did only a few years ago. Early this year, a review of more than 200 studies was published in the journal *Science*. See <http://www.cgmi.org/blog-entry/92/Study-America's-natural-gas-system-is-leaky-and-in-need-of-a-fix.html> The study found that EPA prior estimates of the amount of methane being released into the atmosphere were a significant understatement. Moreover, other studies have also found that EPA comparisons of the harmful effects of methane gas on the atmosphere, as compared to the harmful effects of carbon dioxide, are significantly underestimated.

CO9-7 See the responses to comments FA4-23 and CO9-2.

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

CO9-7
(cont'd)

<http://www.energyjustice.net/naturalgas>, citing International Panel on Climate Change Fifth Assessment Report, 2013 (see Table 8.7 on p714 in Chapter 8 of that report). In other words, methane production from all sources constitutes a significant risk to our atmosphere.

With respect to gas production and pipeline contributions to this problem, a good starting point in your research to an excellent article in the September 8, 2014 issues of *Mother Jones* by renowned environmentalist Bill McKibben (www.motherjones.com/print/259791) that summarizes what we have learned. Scientists have now gathered enough quantitative data to support the case that our decision to rely more heavily on natural gas in the last few years is not reducing the environmental harm of greenhouse gas emissions; rather, it appears to be making the situation worse. It turns out that leaks from all parts of the gas infrastructure are contributing so much methane into the atmosphere that it causes more harm than the coal emissions that have been displaced by burning gas instead of coal. Those leaks occur in the process of hydraulic fracture drilling (fracking) and at every stage of transmission of the gas. Every time a pipeline is expanded to permit more gas to be brought to the surface and transported to replace coal, the environment may actually suffer net damage, not a net gain.

CO9-8

In addition to impacts on the atmosphere, there is a growing body of information about the localized health impacts of gas emissions from production and/or transportation. The problem has been widely discussed in the press. See, e.g., <http://www.usatoday.com/story/money/business/2014/09/10/people-near-fracking-wells-health-symptoms/15337797/> and McKibben (cited above), and has also been the subject of a 2010 documentary and subsequent series on HBO ("Gasland"). In fact, this concern has been backed up now by so many reports from physicians and others that EPA has recently announced it is considering rulemaking to try and deal with the problem. There has been discussion of using TSCA to require production companies to disclose the chemicals they use in fracking, in order to facilitate help in the event of fires or spills or other releases. There is no consideration of this information in the draft EIS, even though the benefits in EPA's recently proposed rule on coal power plants come primarily from the significant reduction in health risks (in that case, asthma and other respiratory illnesses from particulate matter). Moreover, it is important to note that because these health effects are localized along pipeline routes, there needs to be an analysis of environmental justice considerations needs to be undertaken with respect to the routing.

CO9-9

* The most recent international consensus of climate scientists is that we are about to burst through the GHG emissions budget that keeps us from global disaster, and to prevent that we are going to have to leave most of our fossil fuel resources in the ground. See, e.g., <http://www.theguardian.com/environment/2013/sep/27/ipcc-world-dangerous-climate-change>. Accordingly, every project that would add to greenhouse gas emissions in even small quantities poses a major environmental risk. Because we are in this situation, a proper analysis of the No-Build option is most important, and will be discussed below.

CO9-8

The local resources that may be affected by natural gas production and development would not be affected by the Project, and local resources affected by the Project would not be affected by development of natural gas production. Environmental justice issues are addressed in section 4.9.10 of the EIS. See also the response to comment SA4-10.

CO9-9

See the responses to comments FA4-22, FA4-23 and SA14-7. Section 3.1 of the EIS addresses the no-build alternative.

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

* Can mitigation measures eliminate the environmental risks?

CO9-10 The EIS includes a number of mitigation measures that the staff recommends the Commission require the AIM Project to implement as a condition of approval. Section 5-2 of the EIS, p.5-17. We have examined these to see if they are likely to deal with the concerns expressed here. We do not believe they will do so. This is because the mitigation recommendations of the staff appear to be focused exclusively on the construction phase of the project, whereas the consequences to the environment will arise from the gas production and pipeline use once construction is complete. The failure of the EIS to consider such methods is a major insufficiency.

As noted in the McKibben article, there may not be much in the way of successful mitigation that can be accomplished when it comes to controlling leaks. Efforts in this regard have not proved very effective. While EPA regulations may be forthcoming in the future, their scope and effectiveness are not known at this time, and therefore may not be considered.

The draft EIS does devote some attention to mitigation of other health issues, in particular noise and air quality standards (e.g., dust). However, they do not discuss potential ways to deal with other health hazards, such as the presence of toxic (and perhaps explosive) chemicals used in construction.

CO9-11 In this regard, I think the public is entitled to a more clear explanation of the role of Federal preemption with respect to the applicable controls during construction. It appears that with respect to blasting for rock removal, this would be done in accordance with state and local blasting requirements. What is less clear is whether this federally approved and controlled project is subject to any state and local noise and other limits on construction noise? Would it be subject to any state and local requirements on disclosure of toxic chemicals and the like? According to a recent Commission declaratory order, it appears that this might not be the case; rather, the FERC requirements may be the sum total of those which have to be observed. <http://www.vmf.com/3003> If that is indeed the case, the EIS needs additional work with respect to impacts and mitigation considerations. Looking just at noise, for example, I note that the FERC limit is an Ldn of 55 dBA. This is a 24 hour average, and is somewhat equivalent to what one would experience in a wooded residential area and an old urban residential area. http://www.engineeringtoolbox.com/sound-level-d_719.html But of course a 24 hour average permits quite a bit of noise during the hours of construction in more rural areas as we have here in Rhode Island, and set no limits on when construction can occur. Some of the mitigation measures require information be provided about construction hours, but that too is not a limit. A similar situation involves reporting any spills of chemical or air contaminants on or about the construction site to which public authorities would normally be alerted.

CO9-10 See the response to comment FA4-23. The potential for spills and leaks of hazardous materials during construction is addressed in section 4.3 of the EIS. Algonquin has developed a Spill Prevention Control and Countermeasure Plan/Preparedness, Prevention, and Contingency Plan for the Algonquin Incremental Market Project (SPCC Plan) that identifies preventive measures to reduce the likelihood of a spill, such as secondary containment for petroleum products, daily equipment inspections for leaks, and restrictions on the transport of potentially hazardous materials to the construction work area. The SPCC Plan also specifies measures to contain and clean up a spill should one occur.

CO9-11 An evaluation of the air and noise-related impacts of the Project relative to state and local regulations is provided in sections 4.11.1 and 4.11.2, respectively.

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

CO9-12 * The No-Action Alternative.

Given the significant consequences for the atmosphere of adding any additional greenhouse gases, it is particularly important to focus on alternatives. First among these is the option of not proceeding with the pipeline enhancement project.

The discussion of the no-action alternative's impact on the environment is brief. As noted in the Executive Summary:

"The No Action Alternative was considered for the Project. While the No Action Alternative would eliminate or delay the short and long-term environmental impacts identified in this EIS, Algonquin would be unable to supply an additional 342,000 dekatherms per day of natural gas to its existing mainline system; increase deliveries to the Project shippers at existing delivery points in southern New England; or provide three new delivery points for the Project shippers."

This approach is not compliant with the requirements of NEPA. The whole point of considering this alternative in the EIS is to evaluate the "environmental consequences" of not going forward. Guidance on this point is available from the Council on Environmental Quality, <http://ceq.hss.doe.gov/nepa/regs/40/1-10.ITM>. In particular, the guidance states that in instances involving federal decisions on proposals for projects: "'No action' in such cases would mean the proposed activity would not take place, and the resulting environmental effects from taking no action would be compared with the effects of permitting the proposed activity or an alternative activity to go forward." (emphasis added) Instead, the draft's analysis about the environmental effects of taking no action is wrapped up in a single sentence, and contains no summation of the harms being avoided.

This is important. CEQ guidance on the preparation of a no-action analysis stresses that such a review is exactly why the no-build alternative is so valuable to policymakers. "This analysis provides a benchmark, enabling decision makers to compare the magnitude of environmental effects of the action alternatives. It is also an example of a reasonable alternative outside the jurisdiction of the agency which must be analyzed. Section 1502.14(c). Inclusion of such an analysis in the EIS is necessary to inform the Congress, the public, and the President as intended by NEPA. Section 1500.1(a)."

Moreover, the rationale in the draft EIS for proceeding despite environmental consequences, set forth in section 3.1, is not well supported. Here is what the draft says:

"Under the no-action alternative, the short- and long-term environmental impacts described in this EIS would not occur, but the objectives of the Project would not be met. The Project would create an additional 342,000 Dth/d of natural gas delivery from growing supply areas in the Northeast region to local distribution companies and

CO9-12

The no action alternative is discussed in section 3.1 of the EIS. As described, one of the effects of the no action alternative would be the avoidance of the impacts of the Project, which are fully described in the EIS. Another effect of the no action alternative would be the likely implementation of alternatives to provide the equivalent energy that would be provided by the AIM Project. This conclusion is based on the assumption of a need for additional energy supply, which is supported by Algonquin's customer's commercial support of the Project. As described in section 1.1 of the EIS, Algonquin developed the Project in response to customers' demands. Although the EIS considers whether alternative actions might meet the customers' demands, the EIS does not consider or reach a conclusion on whether there is a need for the proposed Project. Section 1502.13 of the CEQ regulations implementing NEPA requires that an EIS "briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." In other words, the EIS states the purpose of and need for a proposed project in order to define the range of alternative actions that the agency can legitimately consider. The determination of whether there is a "need" for the proposed facilities for the purpose of issuing an authorization under section 7 of the NGA will be made in the subsequent Commission Order granting or denying Algonquin's request for certificate authorization and is based on a balancing of the benefits of the Project against any adverse impacts. The EIS explores various alternatives to determine if they would be preferable to the proposed Project. The analysis includes a description of existing programs and systems and future projects. We conclude that the existing infrastructure associated with these alternatives is currently inadequate and would be unable to provide the demands of Algonquin's customers without significant upgrades. We also concluded that the necessary upgrades for these alternatives would be unlikely to occur within the requested timeframe of Algonquin's customers. While the specific response of the market to the no-action alternative is unknown, new infrastructure would be needed, which we believe would have at least a comparable impact if not more impact than the AIM Project, which would have mainly temporary impacts in previously disturbed areas. See revised section 1.1 of the EIS regarding the Commission's Certificate Policy Statement.

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

CO9-12
(cont'd)

municipal utilities (i.e., the Project Shippers) in southern New England. This would help meet existing and future demand for natural gas in the Project area, eliminate supply constraints on existing systems, and increase competition in regional energy markets. The Project additionally would provide new delivery points for local gas utilities in Connecticut and Massachusetts, which would provide natural gas in areas where it is needed and enhance the reliability of local distribution systems, particularly in Boston. If Algonquin's proposed facilities are not constructed, the Project Shippers may need to obtain an equivalent supply of natural gas from new or existing pipeline systems. In response, Algonquin or another natural gas transmission company would likely develop a new project or projects to provide the volume of natural gas contracted through the Project's binding precedent agreements with the Project Shippers. Alternatively, customers of the Project Shippers could seek to use alternative fuel or renewable energy sources, which could require new facilities. In either case, construction of new pipelines or other energy infrastructure would result in environmental impacts that could be equal to or greater than those of the Project. For these reasons, the no-action alternative would not be preferable to or provide a significant environmental advantage over the Project." (emphasis added)

The thrust of this argument is two-fold: that there is a pressing need for the extra capacity, and that added natural gas is going to find its way to the area whether or not this project is approved. These arguments are very similar to the "market analysis" strongly criticized by the EPA in the Keystone pipeline draft EIS for failure to fully document these assertions. The need of "project shippers" for more gas, for example, is only speculative. If the goal is to add capacity to support a new facility on the east coast to ship natural gas overseas, consistent with the view in some parts of the government that this could facilitate sudden shortfalls due to the potential for cutoffs of gas from Russia, it is nowhere stated. Consistent demand from abroad may develop, but it is no more likely than that major greenhouse emitters around the world may decide to slashing global emissions, resulting in too much gas to meet the need. And how does the staff come to the conclusion that construction of other energy infrastructure would result in more environmental impacts than building the pipeline now and adding to our greenhouse gas emissions? Sure, we might burn oil one winter if we grow short before renewables take off, but nobody is planning new coal plants.

CO9-13

Most importantly, the draft's discussion of how renewable energy could meet the demand for fuel is simply outdated by the reality on the ground. The existing discussion is in section 3.2.2. The crux of the argument is that notwithstanding incentives, the pace of renewable energy development is uncertain. What the draft fails to consider is how the growth of renewable energy is likely to be slowed by the availability of more cheap gas, and the net environmental consequences of that delay.

CO9-13

Renewable energy alternatives are collectively the fastest-growing source of electricity generation in the projection, with annual growth rates that exceed the growth rate for natural gas-fired generation. The reference case in the U.S. Energy Information Administration's (EIA) 2014 annual report projects that renewable electricity generation will grow by 69 percent from 2012 to 2040, including an increase of more than 140 percent in generation from non-hydropower renewable energy sources. According to the EIA, the renewable energy policy landscape is particularly dynamic compared to that of more-established energy sources, as new and existing policies continue to be created and adjusted at the federal, state, and local levels. Projections for generation with renewables are sensitive to the prices of competing generation sources and other market factors. In addition, policies that affect competing sources of generation, such as natural gas and coal, can have significant impacts on renewable generation projects (EIA, 2014). For example, the EIA indicates that placing an explicit or implicit value on carbon dioxide emissions would make the cost of operating fossil-fueled capacity higher, improving the relative economics of renewables. However, renewable energy consumption is not expected to fall much below the EIA's reference case in large part because state renewable portfolio standards (RPS) effectively establish a floor for generation with renewables. RPS policies generally require that a minimum share of generation must come from renewable sources, and even with slow load growth or competition from low-cost alternative generation resources, renewable generation must be sufficient to meet the RPS target.

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

CO9-13
(cont'd)

At a September 5, 2014 Federal Policy Roundtable organized by Sen. Sheldon Whitehouse to discuss Federal the development of renewable power (including, e.g., the Principal Deputy Assistant Secretary of the Office of Energy Efficiency and Renewable Energy, Department of Energy, and the Administrator of the New England Region of EPA, as well as academic and other experts), it was uniformly agreed that a wide range of renewable sources of energy are now on the market in this region at competitive prices, that state and federal funds are available to encourage their use, and the only thing stopping that widespread use is probably a lack of public familiarity with these developments. There is a videotape of this panel discussion, which we recommend you include in the record. The same point about the widespread availability of renewable sources of power is also made in a very recent article in the September 14, 2014 New York Times describing the extensive use of renewables in Germany and other nations. (http://www.nytimes.com/2014/09/14/science/earth/sun-and-wind-alter-german-landscape-leaving-utilities-behind.html?hpw&rrf=science&action=click&pgttype=Homepage&version=1p1FedThumbWell&module=well-region®ion=bottom-well&WT.nav=bottom-well&_r=0)

With respect to solar power, the EIS draft asserts that:

“While solar initiatives could potentially bring additional energy to the Project area, solar energy is least available during winter months when demand for natural gas is highest.... These systems generally are not well suited for use as large-scale generation in the Northeast region due to relatively low direct insolation, lower efficiencies, and higher capital costs.”

This completely misses the point. If additional energy can be provided by renewables anytime during the course of the year, it calls into question the need for this project, because it means that the supply of natural gas during the winter is going to be less stressed and that the price is likely to be lower. Moreover, while solar may be less available in the winter than during the summer months, that doesn't mean it won't be available at all, and together with wind power, can still reduce the demand on gas supplies.

Moreover, the argument fails to take into account the reduced demand for winter fuel as a result of improvements in efficiency and to incentivize improved insulation in existing and new structures. The draft EIS does mention efficiency, but it does not consider the extensive efforts being made by Rhode Island to invest heavily in this effort to reduce demand.

The draft then raises another argument:

“Further, solar power generation on an industrial/commercial scale requires large, permanent facilities with impervious cover and no shading to allow for the photovoltaic panels to gather energy. In contrast, the permanent right-of way of the proposed Project area would be restored to pre-construction contours and maintained as herbaceous cover. Therefore, a large, industrial/commercial scale, solar power generation facility would result in greater visual, vegetation, and habitat impacts than the proposed Project. Impacts

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

CO9-13
(cont'd)

of new electric transmission lines associated with solar power generation facilities would be similar to or greater than the impacts from the proposed Project because Algonquin would primarily use its existing right-of-way whereas a new electric transmission line would need to acquire and disturb new land."

While this point is worth considering in the context of the EIS, the projected harm needs to be compared with the harm of expanding the production and use of natural gas, the health impact along the line, and the other matters we have mentioned.

2) General Policy considerations

There are a few additional matters that we believe FERC should take into account in evaluating the evidence on this matter.

CO9-14 First, we urge you to consider that your past practices in EIS development may no longer provide a sound guide for the future, due to the additional information we now have about the harmful effects on the environment of producing and distributing natural gas, and the new lower cost and availability of renewable resources. Your impact analyses need to change to reflect the latest information we have on such problems as methane leaks, health effects (including related environmental justice issues), and the adverse impact of adding additional greenhouse gases to our climate at a time when we are engaged in a national and international effort to reduce them.

CO9-15 Second, the standards utilized by EPA in its EIS reviews are not your only consideration. As a regulatory and permitting agency, you operate within a broader context in implementing their statutory powers. Members of Congress can and do intervene in specific cases and policy decisions using their Congressional review, funding and legislative powers, notwithstanding that as a body they delegated authority to FERC to undertake certain determinations. Moreover, CO9-16 before this record closes, our President, and leaders from around the world, will be gathering at the United Nations to discuss their latest proposals for cutting greenhouse gas emissions. The latest consensus among scientists throughout the world is that we have to reduce our greenhouse gas emissions very sharply in this decade to keep human civilization sustainable if it is even feasible. In my experience as an administrative law council for a Federal agency, it is important for regulators and decision makers to be aware of the constantly changing context in which they are making their decisions, and, within the boundaries of their statutes, to act accordingly.

CO9-17 Third, the previously expressed views of various public officials in the region need to be taken with a grain of caution. Specifically, in the draft EIS, there is also reference to an agreement among existing NE governors to seek additional supplies of natural gas to deal with shortages during harsh weather. As it happens, some of those governors are leaving, and their replacements are likely to rethink their support in light of the potential jobs and growth of fuel supplies using renewables. Accordingly, if that is what is driving the applicants and FERC

CO9-14 See the responses to comments FA4-23, CO9-2 and CO9-8.

CO9-15 Comment noted. FERC's purpose and role relative to the Project is described in section 1.2.1 of the EIS.

CO9-16 GHG emissions are addressed in section 4.11.1 of the EIS. See also the response to comment FA4-23.

CO9-17 Comment noted.

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

CO9-17
(conf'd) forward on this matter, we suggest they think again. The same is true with respect to the prior commitments of members of Congress and the President on promoting gas as a bridge fuel; as information changes, so might the policy, particularly if fossil fuels become subject to a production fee (albeit one returned to consumers) in order to pay for their external burdens on the environment.

CO9-18 Fourth, I would like to direct your attention to the fact that our comments on this project are likely to be very similar to those you hear from other Sierra clubs throughout the Nation. The nationwide Sierra Club is currently in the process of finalizing the text of a clarified position on natural gas, although its general parameters have already been widely disseminated (see, e.g., <http://content.sierraclub.org/naturalgas/> and <http://vault.sierraclub.org/sierra/201401/michael-brune-climate-disruption-speech.aspx>). It is Sierra's view that fracking should be banned, and that power plants should be powered by 100% renewable sources by 2030. In Rhode Island, we have gone to great lengths to set up a legislative framework that will allow us to achieve such a goal. And we concur with those who have suggested that making more gas available in this region will slow our efforts to adopt renewables.

CO9-19 Finally, I am sure in the next few days that industry lawyers will be scrambling to submit information they will allege discredits parts of this statement, including highly technical studies. With paid counsel, they can do this in short order. Unfortunately, the public cannot absorb all of this and respond as quickly. Accordingly, rather than rush ahead with approval of a permit based on an incomplete record, the Rhode Island chapter of the Sierra Club strongly urges you to consider a significant extension of the comment date, or a separate opportunity for the public to review any submissions that provide significant new information after the industries lawyers provides comments in the closing days that the public will not have the opportunity to dispute or even consider. A record has to close at some point, but a record that is not complete is one that can be properly legally attacked by all sides so that the commission can make a prudent and wise decision. We trust that you will consider the arguments that we have raised and err on the side of caution, particularly in light the residents' concerns you have heard and the recent developments outlined here, ruling to provide the opportunity to fully examine this matter.

Thank you.

CO9-18 Your opposition to natural gas development and support of renewable energy is noted. An evaluation of renewable resources as an alternative to the proposed Project is presented in section 3.2.2 of the EIS. See also the response to comment FA4-24. We also note that renewable resources continue to face similar opposition as the AIM Project regarding the renewable energy infrastructure (e.g., comments on the AIM Project also included opposition referencing the proposed Champlain Hudson Power Express Project that would deliver renewable energy to New York).

CO9-19 Comment noted.

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

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Attachment to comments of Peter Galvin
Re CP14-96-000

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Fixing Climate Change May Add No Costs, Report Says

By JUSTIN GILLIS SEPT. 16, 2014

In decades of public debate about global warming, one assumption has been accepted by virtually all factions: that tackling it would necessarily be costly. But a new report casts doubt on that idea, declaring that the necessary fixes could wind up being effectively free.

A global commission will announce its finding on Tuesday that an ambitious series of measures to limit emissions would cost \$4 trillion or so over the next 15 years, an increase of roughly 5 percent over the amount that would likely be spent anyway on new power plants, transit systems and other infrastructure.

When the secondary benefits of greener policies — like lower fuel costs, fewer premature deaths from air pollution and reduced medical bills — are taken into account, the changes might wind up saving money, according to the findings of the group, the Global Commission on the Economy and Climate.

“We are proposing a way to have the same or even more economic growth, and at the same time have environmental responsibility,” said the chairman of the commission, Felipe Calderón, the former president of Mexico and an economist. “We need to fix this problem of climate change, because it’s affecting all of us.”

The commission found that some \$90 trillion is likely to be spent over the coming 15 years on new infrastructure around the world. The big challenge for governments is to adopt rules and send stronger market signals that redirect much of that investment toward low-emission options, the report found.

“This is a massive amount of investment firepower that could be geared toward building better cities, and better infrastructure for energy and agriculture,” said Jeremy Oppenheim, who led the research for the report.

<http://www.nytimes.com/2014/09/16/science/earth/fixing-climate-change-may-add...> 9/16/2014

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

Fixing Climate Change May Add No Costs, Report Says - NYTimes.com

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While the commission found that the requisite steps may make economic sense, that does not mean they will be politically easy, the report says. For instance, the group will recommend that countries eliminate subsidies for fossil fuels, which cost about \$600 billion a year but are vigorously defended by vested interests.

It will urge nations to take a fresh look at the potential of renewable energy, whose costs are plummeting, and also recommend the adoption of initiatives to halt destruction of forests, use land more efficiently and limit wasteful urban sprawl, among many other steps.

The claim that the side benefits, such as better air quality, could potentially offset the costs is likely to be controversial.

The Intergovernmental Panel on Climate Change, a United Nations body, found in a report earlier this year that these side benefits are real, but it declined to attach a specific value to them because the methodology for doing so is difficult and uncertain. The exercise requires, for instance, defining the economic worth of improved human health.

Ottmar G. Edenhofer, a German climate economist who helped lead that earlier effort, said in an interview Monday that he was doubtful about the precise values for the side benefits cited in the new report. He served as an adviser to the global commission, but is not an author of the final document.

"The assumption and the argument that this can be done for free, that's from my point of view overly optimistic," Dr. Edenhofer said. "Yes, you rescue some lives, but to assign monetary values to this is particularly complicated."

Dr. Edenhofer added, however, that the recommendations in the new report were generally sensible and, if adopted, would help to put the world on a more sustainable path. "Climate policy is not a free lunch, but it is a lunch worthwhile to buy," he said.

Some of the report's recommendations, such as limiting urban sprawl and traffic, may sound utopian, but it cites examples of countries and cities that are already taking such action.

More than a hundred cities in the developing world, for instance, have built fast bus systems using dedicated roads or lanes, achieving efficient public transport at a fraction of the cost of rail systems. Congestion charges in cities like

<http://www.nytimes.com/2014/09/16/science/earth/fixing-climate-change-may-add...> 9/16/2014

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

Fixing Climate Change May Add No Costs, Report Says - NYTimes.com

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London, Stockholm and Singapore have sharply cut car trips. China is launching ambitious measures to try to gain control of urban sprawl.

If a concerted worldwide push were made to scale up ideas that have already proved successful, the commission found, emissions of heat-trapping gases could be reduced by billions of tons per year, and the chances of limiting global warming to tolerable levels would be greatly improved.

The findings come one week before world leaders, including President Obama, gather in New York to discuss climate change. Most experts do not expect any big breakthroughs, but tens of thousands of people are expected to march in the streets of New York and other cities on Sunday to demand stronger action.

The Global Commission on the Economy and Climate was appointed by seven countries spanning the income spectrum: Colombia, Ethiopia, Indonesia, Norway, South Korea, Sweden and the United Kingdom. The commission enlisted some of the world's top economists and business consultants to take a fresh look at the economic questions surrounding climate change. The report, due for release Tuesday morning, was made available in advance to The New York Times.

The report seeks to upend some longstanding assumptions. It points out, for instance, that the cost of renewable energy has been plunging so fast that most previous analyses of its potential role are out of date. "Renewable energy sources have emerged with stunning and unexpected speed as large-scale, and increasingly economically viable, alternatives to fossil fuels," the report said.

Perhaps the most important overall point of the report is that economic policies around the world are still aligned to favor fossil fuels, even though unchecked emissions from coal, oil and natural gas represent a potentially grave risk to future generations. "We have to get the prices right," said Helen Mountford, who worked on the report and is the director of economics at the World Resources Institute, a Washington think tank.

Nowhere is this issue clearer, the commission said, than in the \$600 billion a year spent to subsidize fossil fuels, more than six times the level of subsidies going to renewable energy.

The fossil-fuel subsidies have been reduced in most Western countries and are now relatively low. They are still enormous in some developing countries, especially those that are major oil exporters, where cheap gasoline is seen as

<http://www.nytimes.com/2014/09/16/science/earth/fixing-climate-change-may-add...> 9/16/2014

CO9 – Sierra Club Rhode Island Chapter, Peter Galvin (cont'd)

Fixing Climate Change May Add No Costs, Report Says - NYTimes.com

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something of a national birthright. Venezuela, for instance, sells gasoline for about 6 cents a gallon, encouraging profligate consumption.


Countries that try to eliminate such subsidies too quickly can run into political problems. This summer, a sudden doubling of fuel prices in Yemen set off riots. But gradual price increases can work, and some experts have called for a much greater focus by institutions like the World Bank on helping countries eliminate subsidies.

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<http://www.nytimes.com/2014/09/16/science/earth/fixing-climate-change-may-add...> 9/16/2014

CO10 – West Roxbury Crushed Stone Co., Laura Lorusso Peterson

20141002-0009 FERC PDF (Unofficial) 10/01/2014



P.O. BOX 230
331 WEST STREET
WALPOLE, MASS. 02081
MAIN OFFICE • 508-668-2600 • 1-800-547-7600
S.M. LORUSSO & SONS, INC.

ORIGINAL

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SECRETARY OF THE
COMMISSION
OCT -1 P 2:42
FEDERAL ENERGY
REGULATORY COMMISSION

September 26, 2014

Federal Energy Regulatory Commission
888 First St., NE, Room 1A
Washington, DC 20426

To whom it may concern,

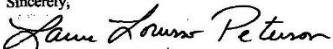
On behalf of West Roxbury Crushed Stone Co., I attended the Federal Energy Regulatory Commission (FERC) public meeting on September 8, 2014 in Dedham in regards to the proposed Algonquin Incremental Market Project (Docket No. CP14-96-000). At that meeting, local residents shared their concerns about how construction of a pipeline through West Roxbury as part of the proposed project might disrupt neighborhood traffic patterns. They also shared their concerns about the safety of situating the pipeline in close proximity to the quarry, where our company blasts stone to provide raw materials to public and private construction projects in Boston and throughout the state. We view these as valid concerns, and would like to see that they are addressed before the project proceeds.

CO10-1

CO10-2 Regarding traffic, it is our understanding that Spectra Energy Corp, which is leading the project, has begun discussions with the local police department on how best to mitigate traffic disruption during the construction of the pipeline. We would like to be included in these discussions in order to help craft a traffic management plan that minimizes disruption stemming from the necessary daily flow of traffic in and out of the quarry.

CO10-3 Regarding the safety of the pipeline in light of our ongoing quarry blasting work, we have been assured by Spectra that a comprehensive analysis performed by a third-party geotechnical firm, GZA GeoEnvironmental Inc., found that current and future blasting would not jeopardize the safe operation or integrity of the pipeline or meter station. We also understand that an existing residential gas line has performed safely under Grove and Centre streets for years. However, should credible evidence emerge that the proposed pipeline is not guaranteed to be secure if it is situated in close proximity to the quarry, this information should be made available to us and to the public, and we will oppose the pipeline project.

Thank you for your consideration of our concerns on behalf of the feedback we have heard from neighborhood residents related to this project. Please do not hesitate to contact me if you have any questions.

Sincerely,

Laura Lorusso Peterson
617-861-7579

Since 1940

CO10-1 See the responses to comments FA6-1 and LA14-3.

CO10-2 Comment noted. See the response to comment LA14-3.

CO10-3 See the response to comment FA6-1.

CO11 – Allegheny Defense Project, Ryan D. Talbott

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of)
Algonquin Gas Transmission, LLC) Docket No. CP14-96-000
Algonquin Incremental Market Project)

MOTION TO INTERVENE

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission's ("FERC") Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.214, and 18 C.F.R. § 157.10, the Allegheny Defense Project respectfully requests leave to intervene in the above-captioned proceeding. On August 6, 2014, FERC published a draft environmental impact statement ("DEIS") for Algonquin Gas Transmission's ("Algonquin") proposed Algonquin Incremental Market Project ("AIM Project" or "Project"). In support of this Motion to Intervene, Allegheny Defense Project states as follows:

I. COMMUNICATIONS AND SERVICE

All communications, pleadings, and orders with respect to this proceeding should be sent to:

Ryan D. Talbott
5020 NE 8th Avenue
Portland, OR 97211
Tel: (503) 329-9162
rtalbott@alleghenydefense.org

II. FERC'S REGULATIONS PROVIDE THAT A MOTION TO INTERVENE WITHIN THE COMMENT PERIOD OF A DEIS IS TIMELY.

CO11-1 FERC's regulations implementing NEPA provide that "any person who files a motion to intervene on the basis of a [DEIS] will be deemed to have filed a timely motion, in accordance

CO11-1 Your request is noted.

CO11 – Allegheny Defense Project, Ryan D. Talbott (cont'd)

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CO11-1
(cont'd) with §385.214, as long as the motion is filed within the comment period for the [DEIS].” 18
C.F.R. § 380.10(a)(1)(i). *See also* 18 C.F.R. § 157.10(a)(2). This motion is being filed on
September 26, 2014, three days before the expiration of the comment period on the DEIS.
Therefore, this is a timely motion to intervene in this proceeding.

III. INTERESTS OF PETITIONER

Allegheny Defense Project is a grassroots conservation organization headquartered at 117
West Wood Lane, Kane, PA 16735 and is dedicated to the protection and restoration of the
Allegheny Bioregion. Formed in 1994, our organization works to protect the Allegheny National
Forest and other public lands from the impacts of industrial extraction such as oil and gas

CO11-2 drilling. Pursuant to 18 C.F.R. § 285.214(b)(1) and 18 C.F.R. § 285.214(b)(2)(ii), Allegheny
Defense Project does not support the Project and does not believe it is in the public interest.

The rapid increase of shale gas drilling in Pennsylvania is fundamentally altering the
Commonwealth's landscape with new roads, well sites, wastewater disposal pits, pipelines, and
other infrastructure. The U.S. Geological Survey recently published numerous reports detailing
how shale gas drilling activities, including pipeline construction, are rapidly fragmenting wildlife
habitat throughout Pennsylvania's forestlands. The Pennsylvania Supreme Court recently stated
that:

By any responsible account, the exploitation of the Marcellus Shale Formation will
produce a detrimental effect on the environment, on the people, their children, and future
generations, and potentially on the public purse, perhaps rivaling the environmental
effects of coal extraction.

Robinson Township v. Commonwealth of Pennsylvania, 83 A.3d 901, 976 (Pa. 2013).

Allegheny Defense Project is concerned that FERC is approving projects such as the
AIM Project without adequately considering the direct, indirect, and cumulative impacts,
including the past, present, and reasonably foreseeable future impacts of natural gas drilling in

CO11-2 See the response to comment FA4-24.

CO11 – Allegheny Defense Project, Ryan D. Talbott (cont'd)

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CO11-2
(cont'd)

the Marcellus, Utica and other shale formations. According to Algonquin, the AIM Project is intended "to deliver natural gas from both existing supply sources and the emerging Marcellus shale gas to premium Northeast and New England markets." Spectra Energy, Algonquin Incremental Market (AIM) Project, Open Season Notice for Firm Service, p. 1 (Attachment 1). Algonquin further states that "[t]he Northeast and New England gas supply dynamics are shifting, with a decline in traditional Canadian imports and a dramatic increase in Appalachian gas, including the Marcellus shale play." *Id.* FERC's approval of the AIM Project, therefore, will facilitate further shale gas drilling in Pennsylvania and, as a result, further degradation of Pennsylvania's forests and wildlife habitat, water, air, and recreation opportunities. Such actions will impact the public resources that our organization works to protect. Therefore, Allegheny Defense Project's participation in this proceeding is in the public interest.

IV. CONCLUSION

WHEREFORE, the Allegheny Defense Project respectfully requests that it be permitted to intervene in this proceeding with full rights to participate in all further proceedings.

Dated: September 26, 2014

Respectfully submitted,

/s/ Ryan Talbott
Ryan Talbott
Executive Director
Allegheny Defense Project
117 West Wood Lane
Kane, PA 16735
rtalbott@alleghenydefense.org

CO11 – Allegheny Defense Project, Ryan D. Talbott (cont'd)

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CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of FERC's Rules of Practice and Procedure, 18 C.F.R. § 385.2010, I, Ryan Talbott, hereby certify that I have this day served the foregoing document upon each person designated on this official list compiled by the Secretary in this proceeding.



Dated: September 26, 2014

Respectfully submitted,

/s/ Ryan Talbott
Ryan Talbott
Executive Director
Allegheny Defense Project
117 West Wood Lane
Kane, PA 16735
rtalbott@alleghenydefense.org

CO11 – Allegheny Defense Project, Ryan D. Talbott (cont'd)

Algonquin Incremental Market (AIM) Project
Connecting emerging natural gas supplies to premium markets in the
Northeast and New England



Open Season Notice for Firm Service
December 13, 2010 – February 11, 2011

CO11 – Allegheny Defense Project, Ryan D. Talbott (cont'd)

Algonquin Incremental Market (AIM) Project

AIM offers the unique opportunity for moving emerging natural gas supplies to premium markets in the Northeast and New England.

Spectra Energy's Algonquin Gas Transmission, LLC ("Algonquin"), a leading provider of natural gas transportation to the Northeast and New England, is proposing a system expansion to deliver natural gas from both existing supply sources and the emerging Marcellus shale gas to premium Northeast and New England markets. This Open Season is seeking market interest in receipt and delivery alternatives resulting from the need to connect growing gas supplies in the Appalachian basin to the expanding Northeast and New England markets.

Project Background

The Northeast and New England gas supply dynamics are shifting, with a decline in traditional Canadian imports and a dramatic increase in Appalachian gas, including the Marcellus shale play. Connecting growing markets to new supply has been beneficial to Algonquin's shippers for many years.

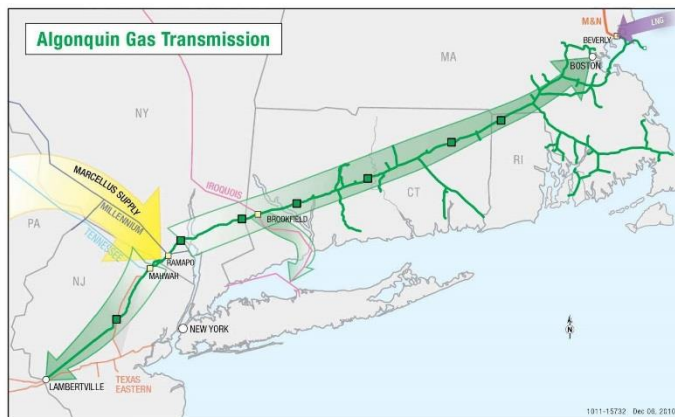
This expansion will offer growing Northeast and New England markets increased supply diversity, enhanced ability to better manage price volatility, improved supply security and reliability. The Algonquin system offers attractive market options for these developing supply sources, including access to conventional Northeast and New England distribution utility market growth, increasing natural gas power generation, and

interconnects with downstream pipelines that provide direct access to additional markets.

Algonquin has the proven ability and experience to develop and execute AIM as evidenced by the numerous projects Algonquin has put into service. Through the utilization of its existing mainline infrastructure, plus incremental expansion as necessary, Algonquin will facilitate the cost-effective transportation of these new supplies to the Northeast and New England markets. In addition, Algonquin will maximize the use of existing rights-of-way in order to minimize the impact on landowners and the environment as well as to keep the construction costs as low as possible.

Project Description

AIM provides shippers with the opportunity to design transportation services from multiple receipt points on the Algonquin system including, but not limited to, Lambertville, Ramapo, Mahwah and Beverly to multiple existing and proposed delivery points including Lambertville, Brookfield and numerous other market points. Shippers may also request to increase the capacity at the Algonquin interconnect at Brookfield, providing incremental gas deliveries into the Iroquois Gas Transmission system via a compression-only service which Algonquin would propose to offer,



Page 1 of 3

CO11 – Allegheny Defense Project, Ryan D. Talbott (cont'd)

subject to any necessary approvals to provide such service.

Algonquin may develop smaller, targeted projects from the nominations received that may be more representative of the timing and markets served. Algonquin anticipates that AIM will have a target in-service date of November 2014.

Project Rates

Rates will be determined at the conclusion of the Open Season and are dependent upon the scope and final facilities required to satisfy the firm service requests for shippers who are awarded capacity and who have executed binding precedent agreements. Shippers will have the ability to choose to pay Algonquin's applicable recourse rates for service on the AIM facilities or to pay a mutually agreeable negotiated rate for such service plus any applicable fuel and applicable charges and surcharges. Algonquin may consider favorable rate or rate-related incentives to anchor shippers who are willing to both commit early and provide the commercial foundation for the AIM project.

Nomination Process

During the Open Season period (9:00 a.m., EST, Monday, December 13, 2010, to 5:00 p.m., EST, on Friday, February 11, 2011), interested parties must submit a Service Request Form, which specifies the Maximum Daily Transportation Quantity (MDTQ), contract term (15-year minimum required), and desired primary receipt and delivery points. The Service Request Form is included in this package. The completed Service Request Form must be executed by a duly authorized representative and mailed, faxed, or emailed to gncrisp@spectraenergy.com in pdf format to Algonquin's offices at: 5400 Westheimer Court, Houston, TX 77056
Attention: Greg Crisp, Project Director
The fax number is (713) 627-4727.
Algonquin reserves the right to reject any Service Request Form that is not received on or before 5:00 p.m. EST, on February 11, 2011.

Contracting for Service

Upon the close of the Open Season, a representative will contact you to discuss your service requirements. Requesting parties will then have the option to proceed with negotiations on a definitive agreement. All definitive transactions will be subject to the receipt of

all necessary governmental approvals and permits in order to render the proposed services and to construct the proposed facilities.

Limitations and Reservations

Algonquin reserves the right, in its sole discretion, to decline to proceed with the AIM project. Algonquin also reserves the right to proceed with one or more projects that will be defined through the contracting process and reserves the right to negotiate with only those parties that submit bids with this AIM open season.

Algonquin also reserves the right to reject any and all bids that do not satisfy the requirements set forth in this Non-binding Open Season Notice. Without limiting the foregoing, Algonquin may, but is not required to, reject any request for service in which the Non-binding Service Request Form is incomplete, is inconsistent with the terms and conditions outlined in this Non-binding Open Season Notice, contains additional or modified terms, or is otherwise deficient in any respect. Algonquin also reserves the right to reject requests for service in the event requesting parties are unable to meet applicable creditworthiness requirements. No request for service shall be binding on Algonquin unless and until duly authorized representatives of both a requesting party and Algonquin have executed a binding precedent agreement.

Communications

At any time during the Open Season, interested parties are encouraged to contact their Algonquin account manager or Greg Crisp at (713) 627-4611 to discuss any questions or to seek additional information.

Spectra Energy Corp (NYSE: SE), a *FORTUNE* 500 company, is one of North America's premier natural gas infrastructure companies serving three key links in the natural gas value chain: gathering and processing, transmission and storage, and distribution. For nearly a century, Spectra Energy and its predecessor companies have developed critically important pipelines and related infrastructure connecting natural gas supply sources to premium markets. Based in Houston, Texas, the company operates in the United States and Canada, approximately 19,100 miles of transmission pipeline, more than 305 billion cubic feet of storage, as well as natural gas gathering and processing, natural gas liquids operations and local distribution assets. The company also has a 50 percent ownership in DCP Midstream, one of the largest natural gas gatherers and processors in the United States. Spectra Energy is a member of both the Dow Jones Sustainability World Index and the U.S. S&P 500 Carbon Disclosure Project's Leadership Index. For more information, visit www.spectraenergy.com.

CO11 – Allegheny Defense Project, Ryan D. Talbott (cont'd)

***** DO NOT WRITE IN THESE SPACES *****

**Algonquin Incremental Market (AIM) Project
Open Season for Firm Transportation Capacity
Service Request Form
Algonquin Gas Transmission, LLC**

Shipper Information

Company _____
Contact _____
Title _____
Address _____
Telephone _____ Fax _____
E-mail _____

Receipt Point(s) ⁽¹⁾	Quantity (Dth/d)	Delivery Point(s) ⁽²⁾	Quantity (Dth/d)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Maximum Daily Transportation Quantity _____

Contract Term: _____ (15-yr minimum)

Signature of Requester/Customer and Date: _____

By completing this Service Request Form, subject to Algonquin's acceptance of shipper's request for service and shipper's receipt of notification from Algonquin of quantities of capacity allocated to shipper, shipper hereby agrees to enter into negotiations with the objective to enter into a binding precedent agreement with Algonquin. If shipper does not enter into a binding precedent agreement, Algonquin reserves the right to reject shipper's request for service as set forth in this Service Request Form.


If you have any questions, please contact your Algonquin account manager or the contact listed below. In addition, please send your completed Open Season Service Request Form to:

Greg Crisp, Project Director (713) 627-4727 fax gncrisp@spectraenergy.com
Algonquin Gas Transmission, LLC
5400 Westheimer Court
Houston, TX 77056

⁽¹⁾ The sum of multiple nominated receipt point quantities may not exceed the Maximum Daily Transportation Quantity.
⁽²⁾ The sum of multiple nominated delivery point quantities may not exceed the Maximum Daily Transportation Quantity.
⁽³⁾ For a compression service at Brookfield from Algonquin into Iroquois Gas Transmission specify Brookfield as both the receipt and delivery point

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CO12 – Earthworks, Nadia Steinzor

<p>20140929-5035 EPRC PDF (Unofficial) 9/26/2014 5:44:19 PM</p> <div data-bbox="508 313 678 431">  </div> <p>September 29, 2014</p> <p>Kimberly D. Bose, Secretary Federal Energy Regulatory Commission 888 First Street NE, Room 1A Washington, DC 20426</p> <p>Dear Ms. Bose:</p> <p>Thank you for the opportunity to comment on the Draft Environmental Impact Statement (DEIS) for Spectra Energy's Algonquin Incremental Market (AIM) Project, FERC Docket #CP14-96-000. Founded in 1988, Earthworks is a nonprofit organization dedicated to protecting communities and the environment from the negative impacts of mineral and energy development while seeking sustainable solutions.</p> <p>Like every other region in an era of accelerating climate change and limited fossil fuel supplies, New England confronts significant economic and environmental challenges in meeting energy demand. We understand that the Federal Energy Regulatory Commission (FERC) is operating within this context when determining whether to approve large natural gas transport and delivery systems, such as the AIM Project currently being proposed by Algonquin Gas Transmission, LLC (Algonquin).</p> <p>CO12-1 However, energy supply pressures should not be allowed to compromise the careful review of a project's potential environmental impacts, nor an applicant's responsibility to be fully transparent about its plans and provide all necessary information to regulatory and permitting agencies. Yet this is what appears to have occurred with the DEIS for the AIM Project.</p> <p>In the following pages, we offer detailed comments on key aspects of the DEIS. However, our overall conclusion is that the DEIS is flawed, incomplete, and does not support FERC's overall conclusion that the project will avoid significant environmental impact. We request that the current DEIS be withdrawn and a Supplemental DEIS be released with at least an additional 90 day public comment period following.</p> <p>CO12-2 Even though Algonquin has neglected to submit key information, FERC is allowing submission of several documents <i>after</i> the public comment period for the DEIS ends. This effectively deprives the public of a meaningful opportunity to comment on the proposed project and to contribute information that FERC should consider <i>before</i> reaching its conclusions about environmental impact.</p> <p>The omission of several documents and analyses implies a "just trust us" stance by FERC that is inappropriate for a public agency and a document designed to solicit public comment. Only the Commission will have access to the documents eventually submitted "after the fact" by the operator, and presumably only the Commission will be reviewing them with regard to their completeness, level of environmental protection, and role in FERC's final decision on the AIM Project.</p> <p>There are several reasons for our position that the DEIS should be withdrawn; key among them are:</p> <p>1612 K ST. N.W. / SUITE 805 / WASHINGTON, DC 20006 / P 202.887.1872 F 202.887.1875 / EARTHWORKSACTION.ORG</p>	
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CO12-1 See the responses to comments FA4-1, FA6-5, and SA1-12.

CO12-2 See the response to comment FA4-1.

CO12 – Earthworks, Nadia Steinzor (cont'd)

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CO12-3	1) <u>FERC's failure to include the Atlantic Bridge Project in the DEIS.</u> FERC acknowledges that the Atlantic Bridge Project would be similar to the AIM Project, that the two projects would have "facilities within the same region of influence," and that "air emissions during operation of compressor stations would overlap" (p. 4-272). Yet FERC dismisses any consideration of the cumulative impacts of the two projects on the basis that the Commission doesn't have yet have specific details on the Atlantic Bridge Project. Failing to include the Atlantic Bridge Project in the DEIS or to require Algonquin to submit information on it prior to review of the AIM Project risks the impermissible segmentation of environmental review, in violation of the National Environmental Policy Act (NEPA).
CO12-4	2) <u>Omission from the DEIS of any site-specific information on the crossing plan for the Catskill Aqueduct.</u> FERC presumes that Algonquin's ongoing consultation with the New York City Department of Environmental Protection, once complete, will ensure that the chosen crossing location and route would not result in environmental impact or influence FERC's final determination.
CO12-5	3) <u>Omission from the DEIS of the Hazards Analysis being prepared for the pipeline crossing near Indian Point Nuclear Energy Center.</u> Algonquin is currently consulting with Entergy regarding the pipeline crossing route and related impacts Indian Point—yet FERC gives Algonquin the benefit of the doubt that hazard mitigation measures, once established, would be sufficient to protect the public and the environment from potential safety-related problems and would not influence FERC's final determination.
CO12-6	4) <u>Omission from the DEIS of completed design modifications for the proposed metering and regulating (M&R) stations.</u> Algonquin has not submitted specific information on the equipment that would be used at these stations, making it impossible for FERC to reach conclusions about related air quality impacts. FERC states that even though "the scope of the changes to the M&R stations has not yet been defined" (p. 4-234), Title V air quality permits from New York, Connecticut, and Massachusetts are "unlikely" to be required (p. 4-222)—simply because the applicant "does not believe" they would be (p. 4-227). Similarly, the applicant is still evaluating noise control measures that would be implemented at M&R sites—but rather than requiring that such information be included in the DEIS, FERC merely asks Algonquin to file noise surveys <i>after operations begin</i> (p. 4-253).
CO12-7	Earthworks disagrees with FERC's conclusion that the AIM Project will not contribute to the expansion of natural gas development. FERC should conduct an analysis of impacts related to the potential expansion of gas-related infrastructure in and around the project's service area. In the DEIS, FERC limits analysis to impacts resulting from construction of the proposed Project even though additional infrastructure build-out is a reasonably foreseeable consequence, the effects of which should be considered as part of a cumulative impacts analysis.
CO12-8	In the DEIS, FERC states that, "The demand for energy and the proposed Project are a result of, rather than a precursor to, development in the region" (p. 4-276). Yet if energy demands can change over time, so too can the demand for energy transport and delivery systems. In fact, the proposed expansion and modification of segments of the existing Algonquin Gas Transmission System through the AIM Project illustrates the strong possibility that additional expansion could occur again in both the short- and long-term.

CO12-3 See the response to comment FA3-5.

CO12-4 See the response to comment SA11-9.

CO12-5 See the response to comment FA4-25.

CO12-6 See the responses to comments SA1-7 and SA11-4. As stated in section 4.11.2.3 of the EIS, acoustical analyses have been completed for the new and proposed modified M&R Station that identifies noise control measures that would ensure that the noise attributable to these stations was less than 55 dBA Ldn. FERC staff typically requires post-construction noise surveys at new and modified M&R stations located in proximity to noise sensitive areas, which is the case for the Guilford, Willimantic, Oakland Heights, and West Roxbury M&R Stations to ensure compliance with the 55 dBA Ldn criterion.

CO12-7 The growth-inducing effects of the Project are discussed in section 4.13 of the EIS.

CO12-8 The purpose and need for the Project is described in section 1.1 of the EIS. The demand for the Project, as well as any future projects, is determined by the needs of project shippers to serve their respective markets. Algonquin has executed precedent agreements with 10 shippers for firm transportation service to deliver new natural gas supplies to the Northeast region.

CO12 – Earthworks, Nadia Steinzor (cont'd)

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CO12-9 Because pipeline and compressor station projects can take years to complete, the capacity proposed in applications is based not only on current conditions, but on projections of future increases in gas production and demand. The oil and gas industry is transparent about the need for pipeline capacity to expand in order to boost drilling and production, and has cited insufficient pipeline capacity as a reason why the rate of drilling has slowed in the Marcellus Shale region.¹ In addition, the regional gas boom's next phase will involve new pipelines to move more gas to market both domestically and internationally.²

The draft New York Energy Plan issued earlier this year is in part predicated on the development and expansion of gas processing, transport, and delivery systems. Specifically, the Energy Plan foresees importing more natural gas from shale and other gas-bearing formations located out of state.³ The AIM Project is a key part of the planning to considerably expand natural gas delivery capacity in the Northeast—which will logically promote increased gas extraction and consumption. This strategy will cement the state's reliance on natural gas and increase the negative environmental and health impacts of associated infrastructure such as compressor stations and processing plants (as well as contributing directly to air and water quality problems in producing states such as Pennsylvania).

CO12-10 The DEIS lacks any meaningful analysis of the cumulative impacts of the proposed Project on air quality. FERC should conduct such an analysis before the DEIS can be considered complete. The DEIS states that, "The AIM Project compressor stations would result in long-term impacts on air quality" (p. 4-272) and uses this as the rationale for only considering projects with similarly long-term impacts in its cumulative impacts analysis. At the same time, FERC concludes that the facilities that would be developed or expanded through the project are not anticipated to have a significant impact on air quality.

This inherent contradiction may be the result of the emissions thresholds included in the DEIS, which are directly related to whether each single component of the AIM Project would be a "major source" of emissions and trigger a review through the federal Prevention of Significant Deterioration (PSD) or Nonattainment New Source Review (NNSR) programs. However, because these requirements focus on individual facilities (i.e., one compressor station or metering station), FERC is in effect neglecting to analyze cumulative emissions across the project as a whole.

Compressor stations can be very large industrial facilities with several sources of air emissions, including tanks, fugitive emissions from leaks, dehydrators, heaters, and engines. These release contaminants such as carbon monoxide (CO); nitrogen oxides (NOx); fine and coarse particulate matter (PM2.5 and PM10); sulfur dioxides (SOx); volatile organic compounds (VOCs), hazardous air pollutants (HAPs) (e.g., formaldehyde, benzene, toluene, and xylene), and greenhouse gases such as methane and carbon dioxide.⁴

The Pennsylvania Department of Environmental Protection (DEP) compiles emissions data on thousands of natural gas facility sites, including compressor stations, on an annual basis.⁵ The table below shows emissions from two compressor stations that Earthworks has studied, both of which have released tons of VOCs and HAPs to the atmosphere and are among the top sources of pollution in the rural counties where they're located.

Table 2. Emissions (in tons per year) of VOCs and HAPs from the Springhill (Fayette County) and Cumberland/Henderson (Greene County) compressor stations. PA DEP Annual Emissions Inventories.

	Springhill		Cumberland	
	2011	2012	2011	2012
VOCs	23.15	16.11	13.25	11.65

3

CO12-9 See the response to comment CO12-8.

CO12-10 The project facilities are geographically separated and many facilities would be located in different air quality control regions. While all of the compressor station modifications would be part of the same Project, they would not all impact the same air quality control regions. Therefore, it is inappropriate to add all compressor station emissions cumulatively. However, we have updated the cumulative impacts analysis in section 4.13.7 of the EIS to address those compressor stations that are in the same air quality control region.

CO12 – Earthworks, Nadia Steinzor (cont'd)

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CO12-10
(cont'd)

Benzene	0.16	0.35	0.14	0.10
Toluene	0.23	0.57	0.11	0.18
Ethylbenzene	0.01	0.02	0.03	0.0047
Xylenes	0.29	0.06	0.07	0.07
Formaldehyde	5.42	3.44	0.46	0.40
n-Hexane	0.39	0.40	0.24	0.13
2,2,4-trimethylpentane	0.03	0.03	0.07	0.13

CO12-11

The DEIS fails consider the risk to residents of exposure to hazardous air pollutants (HAPs). Continuous air sampling is needed to determine the types and levels of contaminants that specific facilities emit; both FERC and the state permitting agencies should require such testing at both the compressor stations and the M&R stations that are part of the AIM Project. Earthworks has conducted air sampling and health symptom surveys in gas development areas across Pennsylvania. Participants living near gas wells and compressor stations have reported problems that are consistent with the scientifically established health effects of the chemicals detected at their homes.⁶ Recent studies confirm the connection between gas and oil wells and facilities and the health problems experienced by nearby residents, including dizziness, headaches, nausea, fatigue, and nosebleeds.⁷

Further, complaints by residents living near compressor stations have been documented in several states. For example, both the Texas Commission on Environmental Quality and the Pennsylvania DEP have received complaints from residents living near compressor stations, including continuously strong odors and irritation of the nose and throat.

It is also well known that the combination of VOCs with sunlight forms ozone, a pollutant that can impair breathing, aggravate asthma and, over time, may permanently damage lungs.⁸ A 2009 study estimated that taken together, gas compressor engines across the Dallas-Ft. Worth area would emit 65 tons per day of smog-forming compounds—the equivalent of about a third of all oil and gas emissions in the area and three times the smog-forming emissions coming from the area's airports.⁹

Many of the compressor stations in New York, including some slated for expansion through the AIM Project, are already classified as major sources of HAPs, which can cause cancer or other serious health effects, such as reproductive problems or birth defects, as well as adverse environmental and ecological effects, and are regulated by the US Environmental Protection Agency (EPA).¹⁰ A recent peer-reviewed study underscores the importance of considering the cumulative exposures to air toxics from multiple sources simultaneously, since when people are exposed to multiple pollutants the dose increases synergistically, with a greater health effect felt than if these contaminants were inhaled separately.¹¹

CO12-12

This concern underscores the importance of including the Atlantic Bridge Project in a cumulative impacts analysis of the AIM Project, which (as stated above) the DEIS neglects to do. The DEIS indicates that the Atlantic Bridge Project would be similar to the AIM project because it would also include new and expanded pipelines and compressor stations and modifications of metering stations (p. 4-272). Even if the two projects would be constructed at different times, they would likely end up operating simultaneously—making it imperative for FERC to adhere to its mandate under NEPA to consider known future cumulative impacts.

CO12-13

Finally, the DEIS fails to include a meaningful analysis of the climate change impacts of greenhouse gas (GHG) emissions from the construction and operation of facilities included

4

CO12-11

Section 4.11.1.3 of the EIS presents potential impacts associated with the operation emissions of the proposed Project, including HAPs. The existing permitted emissions for the compressor stations associated with the Project are not within the scope of this EIS. The proposed modifications to the compressor stations associated with the Project would result in significantly less HAP emissions from the Stony Point Compressor Station, and between 0.7 and 1.8 tons per year (tpy) of additional HAPs at the remaining four compressor stations. These levels are less than major source thresholds for HAPs and do not trigger any additional mitigation.

CO12-12

See the response to comment FA3-5.

CO12-13

We disagree. An analysis of GHG emissions associated with the Project is presented in section 4.11.1.3 of the EIS, including fugitive emissions, and a cumulative impacts analysis related to climate change is presented in section 4.13.8 of the EIS. In reference to predicting climate change impacts, FERC staff followed guidance provided by the CEQ in their February 18, 2010 memorandum titled *Draft NEPA Guidance on Consideration of the Effect of Climate Change and Greenhouse Gas Emissions*, which states that "agencies should recognize the scientific limits of their ability to accurately predict climate change effects, especially of a short-term nature, and not devote effort to analyzing wholly speculative effects." On December 18, 2014, the CEQ released a revised draft GHG emission guidance memo. As recommended in this new guidance, to the extent practicable, FERC staff incorporated additional guidance provided by this memo into the GHG analysis completed for the AIM Project. As such, FERC staff has presented the GHG emissions associated with the Project, potential impacts of GHG emissions, and mitigation proposed by Algonquin to minimize GHG emissions associated with the Project. See the response to comment CO7-3 for additional information regarding methane global warming potential.

CO12 – Earthworks, Nadia Steinzor (cont'd)

CO12-13
(cont'd) **in the AIM Project.** The conclusion in the DEIS that GHG emissions would not affect climate change in the project region is unfounded. FERC states that the AIM Project would only bring about GHG emissions increases of 0.4 percent and that this amount is “very small” in relation to total GHG emissions for the New England region (p. 4-236). Yet such a conclusion is impossible to reach without the emissions information currently omitted from the DEIS (discussed above), as well as FERC’s lack of consideration of fugitive emissions in its assessment of air quality impacts. The assumption that the AIM Project would increase the use of natural gas regionally runs counter to the Commission’s assertion (discussed above) that the Project would not promote further natural gas development—the presumed basis for not considering the “forcing effects” of the AIM Project.

In addition, FERC does not provide any evidence to support the assumption in the DEIS that the AIM Project would reduce fuel oil use and increase natural gas use, nor do so in such a way as to result in “regionally offsetting some GHG emissions” (p. 4-286). FERC’s conclusion about GHG emissions rests on the unsubstantiated presumption that natural gas use has climate change benefits—which is questionable in light of a growing body of evidence to the contrary.

For example, a recent analysis of 200 studies shows that federal estimates of methane emissions from natural gas operations have been vastly underestimated.¹³ Other studies show that the so-called climate benefits of natural gas disappear when emissions are assessed over a 20-year timeframe (rather than the 100-year timeframe preferred by the gas industry and many regulators and public officials)—in other words, closer to the window of time still available to avert climate disaster.¹⁴ A comprehensive study issued this month concludes that increasing reliance on natural gas will have little or no effect on reducing GHG emissions (and may hinder the growth of renewable energy).¹⁴

CO12-14 In conclusion, FERC has failed to substantiate its conclusion that that AIM Project would not result in significant environmental impacts. The current DEIS should be withdrawn and FERC should explicitly address the concerns detailed above and provide additional information and time for public review and comment. In the absence of such action, residents of Connecticut, Massachusetts, New York, and Rhode Island will have firm grounds to believe that FERC, a public agency, is not acting in the public interest, but placing the environment and health at risk by approving the AIM Project.

Thank you for your consideration.

Sincerely,



Nadia Steinzor
Eastern Program Coordinator, Earthworks
PO Box 149, Willow, New York 12495
202-887-1872, ext. 109
nsteinzor@earthworksaaction.org

CO12-14 See the responses to comments FA4-1, FA6-5, and SA1-12.

CO12 – Earthworks, Nadia Steinzor (cont'd)

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¹ Lynn Doan and Richard Stubbe, "Gas Rigs Slump as Pipeline Capacity Limits New Drilling," Bloomberg News, May 23, 2014. www.bloomberg.com/news/2014-05-23/u-s-energy-rigs-drop-by-4-to-1-957-baker-hughes-says.html.

² Laura Olson and Steve Esack, "More pipelines the next phase of Marcellus Shale drilling boom," The Morning Call, August 8, 2014. www.mcall.com/news/nationworld/pennsylvania/mc-pa-shale-pipelines-corbett-wolf-20140808-story.html.

³ 2014 New York State Draft Energy Plan, Volume 2, Sources, at 103, <http://energyplan.ny.gov>.

⁴ Pennsylvania Department of Environmental Protection, 2013. Air Emissions Inventory Data for the Unconventional Natural Gas Industry, www.dep.state.pa.us/dep/deputate/airwaste/eq/emission/marcellus/Nat%20Gas%20Emissions%202012%20-WellFarmStation_20140324.xlsx.

⁵ Pennsylvania Department of Environmental Protection website: "Air Emissions Data from Natural Gas Operations," www.dep.state.pa.us/dep/deputate/airwaste/eq/emission/marcellus_inventory.html.

⁶ Nadia Steinzor, Wilma Subra, and Lisa Sumi, "Investigating Links Between Shale Gas Development and Health Impacts through a Community Survey Project in Pennsylvania," *NEW SOLUTIONS*, February 2013.

⁷ See for example, T. Colborn, K. Schultz, L. Herrick, and C. Kwiatkowski, "An exploratory study of air quality near natural gas operations," *Human and Ecological Risk Assessment: An International Journal*, 2013; and Lisa M. McKenzie, Roxana Z. Witter, Lee S. Newman, and John L. Adgate, "Human Health Risk Assessment of Air Emissions from Development of Unconventional Natural Gas Resources," *Science of the Total Environment*, 2012.

⁸ US Environmental Protection Agency, Air Quality Index, A Guide to Air Quality and Your Health (August 2009), www.epa.gov/airnow/aqi/brochure_08-09.pdf, at 5-6.

⁹ Al Armendariz, Emissions from Natural Gas Production in the Barnett Shale Area and Opportunities for Cost-Effective Improvements, report for Ramon Alvarez, Environmental Defense Fund (January 26, 2009), www.edf.org/news/report-finds-barnett-shale-emissions-contributing-dfw-smog.

¹⁰ US Environmental Protection Agency Air Toxics website: "Pollutants and Sources," www.epa.gov/ttn/atw/pollsour.html.

¹¹ David Brown, Beth Weinberger, Celia Lewis, and Heather Bonaparte, "Understanding exposure from natural gas drilling puts current air standards to the test," *Reviews on Environmental Health*, March 2014.

¹² *Ibid.*

¹³ A. R. Brandt, G.A. Heath, E.A. Kort, et al. "Methane Leakage from North American Natural Gas Systems," *Science*, February 14, 2014.

¹⁴ R.W. Howarth, R. Santoro, and A. Ingraffea, "Methane and the Greenhouse Gas Footprint of Natural Gas from Shale Formations," *Climatic Change Letters*, June 2011.

¹⁵ Christine Shearer, John Bistline, Mason Inman, and Steven J. Davis, "The effect of natural gas supply on US renewable energy and CO2 emissions," *Environmental Research Letters*, September 2014.

CO13 – Reynolds Hills, Inc.

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Algonquin Gas Transmission, LLC
Algonquin Incremental Market Project

Docket No. CP14-96-000
PF13-16-000

MOTION TO INTERVENE OF REYNOLDS HILLS, INC.

On August 6, 2014, the Federal Energy Regulatory Commission ("FERC") issued a Draft Environmental Impact Statement (the "Draft EIS") for the proposed Algonquin Incremental Market Project (the "Project"), FERC Docket No. CP14-96-000. Algonquin Gas Transmission LLC ("Algonquin"), a wholly owned subsidiary of Spectra Energy Partners, LP ("Spectra"), seeks, among other things, authorization to construct up to 42-inch diameter pipelines and all appurtenant facilities as well as stations in New York, Connecticut, Rhode Island and Massachusetts.

CO13-1 Pursuant to 18 C.F.R. § 157.10 and 18 C.F.R. § 385.214, Reynolds Hills, Inc. ("Reynolds Hills"), by and through their President, Nancy S. Vann, respectfully moves for the Commission to grant intervention in the above-captioned matter. The proposal will modify, expand, and construct a large gas pipeline that already runs along and through Reynolds Hills. The proposal would negatively impact our environment by CO13-2 impacting a wetland on our property, exposing us to airborne contaminants in a non-attainment area under the Clean Air Act, and would forever alter our community because our property abuts and is transected by the significant changes CO13-3 proposed for the pipeline route. The proposal would cause environmental damage to our property and would negate the reason for our community's existence – an environmental aesthetic and place to commune with nature and friends in a small community in northern Westchester County.

We timely file this motion to intervene and to oppose the pipeline's proposed modifications and route within the public comment period for the *Draft EIS*. The comment period ends on September 29, 2014, and thus, the Commission must deem the intervention to be filed timely, in accordance with both 18 C.F.R. § 157.10 (a)(2) and 18 C.F.R. § 385.214. Reynolds Hills intends to timely file substantive comments on the Draft EIS for the above referenced application.

- CO13-1 Comment noted. General impacts and mitigation measures for protecting wetlands are described in section 4.4.3 of the EIS.
- CO13-2 See the responses to comments SA4-1 and SA4-9.
- CO13-3 Construction procedures and restoration measures for the buried replacement and new segments of pipeline are discussed in section 2.3 of the EIS.

CO13 – Reynolds Hills, Inc. (cont'd)

I. COMMUNICATION AND CORRESPONDENCE

Service in this proceeding should be made upon, and communications should be directed to the following persons:

Nancy S. Vann,
President, Reynolds Hills, Inc.
201 Union Avenue
Peekskill, New York 10566
nancy_vann@hotmail.com

II. INTERVENOR

Reynolds Hills is a non-profit summer bungalow community located in the City of Peekskill and in the Town of Cortlandt, both in Westchester County, New York. As property owners, we are concerned about the environmental impact of this proposed 42-inch-diameter high-pressure natural gas pipeline project. The pipeline currently runs adjacent to and through our property, which will be significantly negatively impacted by the proposed construction, maintenances, and expansion of the pipeline.

Our historic bungalow community was established in 1929 and pre-dates the existing and proposed pipeline by over two decades. There are seventy-two (72) individual cottages, a community social hall, a swimming pool, a tennis court, a stream and an area of separate community gardens. Much of the Reynolds Hills property is undisturbed woodlands and mature wetlands. Most, but not all of the cottages in our community are three-season homes; some occupied only on weekends, but many occupied full time between April 1st and November 15th. Several are year-round residences. Members of the community include descendants of the original founders, young families, hikers, kayakers, gardeners and senior citizens seeking an undisturbed place to enjoy nature. Our community rules have been established to protect the currently existing natural and historic nature of our property - and under these rules, no further development is permitted.

III. GROUNDS FOR INTERVENTION

CO13-4 | Reynolds Hills is extremely concerned about the negative environmental impacts identified in the *Draft EIS* for Algonquin's application and about the significant environmental impacts that were not addressed by the *Draft EIS*. Our community and its members will be directly impacted by the Project that will run across our property.

CO13-4

Comment noted.

CO13 – Reynolds Hills, Inc. (cont'd)

Safety

CO13-5 The roads within Reynolds Hills are single lane roads and the ravine and wetlands are not readily accessible from our entry road, which would make it nearly impossible to deploy any firefighting effort there. Since a fire along the pipeline near our homes, whether during or after construction, would not be accessible to firefighting equipment due to its unique and somewhat hidden location, it would be disastrous for any of our members that were in the community at the time of such an incident. In addition, any fire would be a major threat to the seventy-two (72) houses and the other structures in our community, the woodlands habitat that is around and between them, and the natural wetland and brook area.

CO13-6 There have been a number of pipeline disasters in the current decade alone. A 2010 natural gas line explosion in San Bruno, California killed eight people and damaged or destroyed dozens of homes. Reynolds Hills is concerned that adequate steps have yet to be identified or proposed to prevent such an accidental occurrence on or near our unique property.

CO13-7 The new 42" diameter, high-pressure gas pipeline will be in addition to the three already existing pipelines that cross under the Hudson River from Rockland County to Westchester County. The new pipeline would intersect underground in close proximity to the Indian Point nuclear power plant (that has 40 years of spent nuclear fuel rods currently housed in "temporary" spent fuel pools without radiation shielding and without adequate fire suppression abilities to stop a gas pipeline explosion), is near the Ramapo and Stamford-Peekskill earthquake fault lines, and will intersect with one (possibly two) proposed high voltage power lines. The higher volume and pressure of the natural gas and its proximity to Indian Point would also increase the risks of nuclear incidents in the Reynolds Hills' community area particularly because there is no effective evacuation strategy for such a fast moving nuclear accident triggered by a pipeline explosion and subsequent fire. These and other Indian Point issues were not addressed in the *Draft EIS*.

Environment

CO13-8 The proposed pipeline expansion, maintenance and construction will directly impact our community because it will require work in, around, and over, our wetland area. The wetland has significant environmental values, particularly to our community, and provides supporting habitat and ecological and biodiversity benefits for our woodlands. The wetland is in a ravine and borders Dickey Brook. Construction in the wetland would have an impact on the brook as well, which is vital to our homes and our community because of the ecosystems services that it provides such as storm drainage and very importantly flood control which is more necessary than ever because of the extreme weather witnessed in our area due to a changing climate (e.g., Hurricane Sandy and Tropical Storm Irene).

CO13-5 As stated in section 4.12.3 of the EIS, the risk is low for a pipeline incident at any particular location. The risk that single-lane roads may pose with respect to firefighter access is already present, for a fire of any cause. Moreover, the AIM Project would replace an existing older pipeline, and so represents little if any incremental risk.

CO13-6 See the response to comment SA4-5.

CO13-7 See the responses to comments FA4-25, SA4-2, and SA7-4.

CO13-8 Comment noted. The Project would be built in accordance with the FERC Plan and Procedures and Algonquin's E&SCP, which mitigate for potential impacts on wetlands and waterbodies. Additional mitigation measures for protecting waterbodies and wetlands are described in sections 4.3.2.6 and 4.4.3 of the EIS.

CO13 – Reynolds Hills, Inc. (cont'd)

CO13-9	During heavy rains, the current character of our wetland will be negatively impacted by the proposal. We expect that runoff and silt would lead to additional flooding of Dickey Brook, further impacting our wetlands and making our community's single entry road impassable. The flooding of public roads would also be exasperated. Sedimentation, erosion, and potential contamination of Dickey Brook and our wetlands during construction will lower water quality. Additionally, compaction of our soil will reduce the ability for water to recharge groundwater supplies and expanding the pipeline will create a new conduit for water through the gravel surrounding the pipeline, altering the hydrologic pattern and degrading the quality and quantity of the water in the area. There has been no adequate or comprehensive analysis performed on these impacts to our wetlands in the Draft EIS.
CO13-10	During construction, the peace and enjoyment that are the reasons for Reynolds Hills' existence would be seriously disrupted. The disruptions will likely impact the species of flora and fauna that rely upon our wetland and likely lead to the departure of many of the species, including any protected species, that are now such an important part of our environment. The construction impacts to the ecosystem would take decades to restore, and the applicant's plans are unclear at best. These issues – disruption and post-construction activities of the applicant – have not been adequately addressed in the <i>Draft EIS</i> .
<u>Health Risks Related to Air Emissions</u>	
CO13-11	Reynolds Hills is also concerned about methane emissions and air contaminants from the pipeline and from the metering and regulating station across Route 9 from our community. There are documented problems with valves that Spectra energy uses in gas infrastructure projects. Methane emissions from shale gas infrastructure projects are recognized as a significant radon hazard and may contain benzene, toluene, formaldehyde and many other chemicals. Health impacts associated with emissions include nosebleeds, visual impairment, neurological and respiratory problem, leukemia, aplastic anemia, lung, liver, kidney and cardiovascular disease. The elderly and health-compromised populations of our community are particularly vulnerable.
CO13-12	The Westchester County area where the pipeline is located is currently a marginal non-attainment area under the Clean Air Act eight (8) hour ozone standard. For all of these potentially significant health issues for residents of our community, a formal Health Impact Assessment (HIA), as outlined by the Centers for Disease Control, should be conducted and included in a Supplemental Draft Environmental Impact Statement and provided for our review. Further, the failure to adequately address air
CO13-13	emission and air permitting issues in the <i>Draft EIS</i> is a basis for our request for additional time, at least 90 days for comments on a Supplemental Draft
CO13-14	Environmental Impact Statement, prior to issuing a Final Environmental Impact Statement.

CO13-9	The Project would be built in accordance with the FERC Plan and Procedures, which includes various requirements to restoring waterbodies and wetlands impacted by the Project to their original pre-construction state. The Procedures and Algonquin's E&SCP include mitigation measures for minimizing erosion, sedimentation, and soil compaction during construction. No gravel would be placed around the pipe. As indicated in the FERC Plan and Procedures, trench breakers would be used to prevent the creation of a "conduit" for water to travel around the pipe.
CO13-10	Section 4.4.3.1 of the EIS describes wetlands impacts and proposed mitigation. See also the responses to comments SA11-14, SA11-13, and CO3-13. As explained in section 4.7.1 of the EIS, Algonquin consulted with the FWS for federally protected species and the appropriate state agencies for state-listed species, including amphibians.
CO13-11	See the responses to comments SA4-1, SA4-10, and SA4-1.
CO13-12	See the responses to comments SA4-9 and SA4-10.
CO13-13	See the responses to comments SA4-1 and SA4-9.
CO13-14	See the responses to comments FA4-1, FA6-5, and SA1-12.

CO13 – Reynolds Hills, Inc. (cont'd)

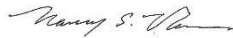
IV. CONCLUSION

CO13-15 Reynolds Hills has considerable interest in protecting the health of our members and the environmental impacts to our property – the very property of the proposed expansion, construction, and maintenance for the proposed Project. The small community nature of Reynolds Hills, the proposed destruction of its vital wetlands, and the location of metering and regulating infrastructure in close proximity are issues that have not been adequately addressed in the *Draft EIS*.

Reynolds Hills has a clear interest that may be directly affected by the outcome of the proceeding and meets the regulatory requirements to intervene set forth in 18 C.F.R. § 157.10(a)(2) and 18 C.F.R. § 385.214(b)(2)(ii) and (iii). No other party in this proceeding will be able to adequately protect these interests and the implications are substantial to our community as demonstrated by the inadequate *Draft EIS*. Accordingly, Reynolds Hills has the necessary direct and substantial environmental interest in the outcome of this process.

For the reasons set forth above, Reynolds Hills respectfully requests that this Motion to intervene be granted and that we be permitted to participate, with the full rights of a party, in the above-captioned proceeding before FERC.

Respectfully Submitted,




Nancy S. Vann
President, Reynolds Hills, Inc.
201 Union Avenue
Peekskill, New York 10566

CO13-15

We disagree. We believe the EIS present a thorough evaluation of the impacts associated with the Project.

CO14 – Stop the Algonquin Pipeline Expansion

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STOP THE ALGONQUIN PIPELINE EXPANSION!

29 Highland Rd.
Rye, NY 10580

September 27, 2014

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1
Washington, DC 20426

**RE: Algonquin Incremental Market ("AIM") Project;
FERC Docket No. CP14-96-000**

Dear Secretary Bose:

Please accept the following comments on behalf of Intervenor Stop the Algonquin Pipeline Expansion ("SAPE"), on the Draft Environmental Impact Statement ("DEIS") for the proposed Algonquin Incremental Market ("AIM") Project ("Project"), particularly as it affects the counties of Rockland, Westchester and Putnam in New York State. As an Intervenor in these proceedings, SAPE urges the Federal Energy Regulatory Commission ("Commission" or "FERC") to withdraw the DEIS and take no further action on the application until all of the matters set forth in these comments are addressed in a revised DEIS.

For the reasons explained below, the DEIS is inadequate as a National Environmental Policy Act ("NEPA") document and a revised DEIS must be prepared with a new period for review and public comment on the proposed project to ensure that the Commission satisfies its obligations under NEPA.

CO14-1

I. The Time Period Designated to Submit Comments on the DEIS is Wholly Insufficient, Violates the Public Right to Meaningful Participation, and is Contrary to the Express Purpose of NEPA

While SAPE appreciates the additional nine (9) days that the Commission has given to the public for comment—extending the original comment period from August 6, 2014 to September 29, 2014—a comment period of just over fifty (50) days is still wholly insufficient time to properly review the DEIS and provide substantive and useful comment given the enormity and complexity of the proposed Project. The Commission should have at least doubled the comment period for a project of this scale. The DEIS

CO14-1 See the responses to comments FA4-1 and SA1-12.

CO14-2 See the response to comment FA6-5.

CO14 – Stop the Algonquin Pipeline Expansion (cont’d)

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CO14-2
(cont'd) and its exhibits total well over 1,000 pages—including appendices—and discuss complex technical and scientific information, including engineering, ecological and environmental studies and data upon which the Commission relies to justify its conclusions.

CO14-3 To meet the proposed Project’s goals, the public should be provided appropriate time to allow for meaningful review of this lengthy DEIS with all its complexity. In that way, the public can adequately assess the study of methodologies, assumptions made and conclusions made before providing the type of meaningful comments to the Commission that NEPA expects. SAPE notes that a coalition of elected officials¹¹ recently sent a letter to the Commission requesting that the DEIS be withdrawn and a revised DEIS be released when all the missing information is complete, and that a ninety (90) day public comment period commence at that time.

CO14-4 Further, for many who attended the scheduled public meetings over the past week, the meetings represented the only opportunity to have their voices heard on their legitimate concerns regarding the proposed Project. The limited amount of time provided to the public for comment on the DEIS suggests that the Final EIS has already been written and that the Commission is merely going through the motions to create an illusion of meaningful public participation.

II. The DEIS is Grossly Incomplete and Premature

CO14-5 Virtually no aspect of the DEIS is complete; its deficiencies are pervasive and substantial. Taken together they deprive the public of a meaningful opportunity to comment on the proposed plans and fail to impose enforceable mitigation prior to permitting. Significant omissions addressed in the DEIS include, but are not limited to, the following:

- CO14-6
 - Final conclusion on safety-related conflicts with the Indian Point Energy Center (“IPEC”) not provided (Section 4.12.3);
- CO14-7
 - Field Sampling Plan for potential soil contamination not provided (Section 4.2.2.6);

¹¹ To date, the list of politicians that have signed-on to that letter requesting additional time to review and comment on the DEIS includes, but is not limited to: New York State Senator Andrea Stewart-Cousins; New York State Senator George Latimer; Assemblyman Tom Abinanti; Assemblyman David Buchwald; Assemblywoman Sandy Galef; Assemblywoman Shelley Mayer; Assemblyman Steve Otis; Westchester Legislator Catherine Borgis; Westchester Legislator Peter Harekham; Westchester Legislator Michael Kaplowitz; Westchester Legislator Catherine Parker; Westchester Legislator MaryJane Shimsky; Westchester Legislator Lyndon Williams; Putnam Legislator Carl Albano; Putnam Legislator Sam Oliverio; Rockland Legislator Harriet Cornell; Buchanan Mayor Theresa Knickerbocker; Cortlandt Town Supervisor Linda Puglisi; Peekskill Mayor Frank Catalina; Buchanan Town Board Member Duane Jackson; Cortlandt Town Board Member Debbie Costello; Cortlandt Town Board Member Seth French; Peekskill City Council Member Drew Claxton; Peekskill City Council Member Kathleen Talbot; Peekskill City Council Member Vinnie Vasce; North Salem Town Board Member Amy Rosmarin; Ossining Town Board Member Victoria Gentry; Yorktown Town Board Member Nick Bianco; Yorktown Town Board Member Vishu Patel.

CO14-3 See the responses to comments FA4-1, FA6-5, and SA1-12.

CO14-4 See the responses to comments FA6-5 and SA2-10.

CO14-5 See the response to comment FA4-1.

CO14-6 See the response to comment FA4-25.

CO14-7 See the response to comment SA1-5.

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- CO14-8 | • Insufficient analysis of impacts to vernal pools in New York (Section 4.4.3.2);
- CO14-9 | • Non-saturated wetlands not identified (Section 4.4.4);
- CO14-10 | • Compensatory Mitigation Plan not prepared (Section 4.4.5);
- CO14-11 | • Tree survey of Harriman State Park not complete (Section 4.6.1.5);
- CO14-12 | • Alternatives for the Hudson River crossing not prepared (Section 4.4.3);
- CO14-13 | • Final plans for the Catskill Aqueduct crossing not developed (Section 4.3.2.1);
- CO14-14 | • Plans for to address trench dewatering not developed (Section 4.3.2.6);
- CO14-15 | • Survey for the presence of the Indiana bat not complete (Section 4.7.1.2);
- CO14-16 | • Survey for the presence of the northern long-eared bat not complete (Section 4.7.1.3);
- CO14-17 | • Incomplete information on impacts to migratory birds (Section 4.7.2);
- CO14-18 | • Incomplete information on impact to bald eagles (Section 4.7.3);
- CO14-19 | • Survey for the presence of Timber Rattlesnakes not complete (Section 4.7.5.1);
- CO14-20 | • NYSDOS approval of consistency assessment for Hudson Crossing (Section 4.8.4.1);
- CO14-21 | • Design modifications for New York M&R stations not complete (Section 4.11.1.2);
- CO14-22 | • Site Specific construction plan for St. Patrick Church not provided (Section 4.8.5.1);
- CO14-23 | • Site Specific construction plan for Buchanan-Verplanck Elementary not provided (Section 4.8.5.1).
- CO14-24 | These omissions go to the very heart of the question of whether the proposed Project can or should be constructed. By providing a wholly incomplete DEIS for public comment, FERC has put the public and members of SAPE in an uncertain position. Undoubtedly, the permitting of this Project should not be considered further until all of the documents and information identified on the face of the DEIS are completed and made available for review and public comment. Until this occurs, the DEIS is premature and must be withdrawn.

- CO14-8 | See the response to comment SA1-5.
- CO14-9 | Appendix K of the EIS has been updated to identify saturated and non-saturated wetlands.
- CO14-10 | See the response to comment FA3-3.
- CO14-11 | See the response to comment CO3-8.
- CO14-12 | Our assessment of route alternatives to the proposed Hudson River crossing is included in section 3.5.1 of the EIS. See also the response to comment SA11-6.
- CO14-13 | See the response to comment SA11-9.
- CO14-14 | See the response to comment SA11-10.
- CO14-15 | See the response to comment SA11-13
- CO14-16 | See the response to comment CO3-13
- CO14-17 | See the responses to comments FA4-26 and SA11-14.
- CO14-18 | See the response to comment SA11-15.
- CO14-19 | See the response to comment SA11-16.
- CO14-20 | See the response to comment SA1-6.
- CO14-21 | See the response to comment SA1-7.
- CO14-22 | See the response to comment SA1-8.
- CO14-23 | See the response to comment SA1-9.
- CO14-24 | See the response to comment FA4-1.

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III. The Project Poses A Significant Threat to Public Health and Safety.

CO14-25

The transmission of highly flammable natural gas creates significant risks of loss of life and major property damage. The greatest hazard is a fire or catastrophic explosion following a major pipeline rupture. The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration reports that in the past 20 years alone, on-shore gas transmission incidents have caused 41 fatalities, 195 injuries requiring in-patient hospitalization and over \$1.7 billion in property damage.²

Safety is of paramount concern to SAPE members because the proposed Project plans to replace an existing 26-inch diameter pipeline with 42-inch diameter high-pressure pipelines and to add an additional 42-inch diameter high-pressure segment across the Hudson River entering a highly populated, high risk area in Cortlandt, New York in Westchester County. As a result, the Project will allow significantly greater amounts of combustible natural gas to flow through the infrastructure, thereby presenting greater risk of hazard to the public.

FERC's conclusion that the Project will have no significant environmental impacts is unsupportable where virtually no aspect of the DEIS is complete. The public has the right to know with certainty what environmental impacts of the proposed Project will be. This is particularly true where the Project raises significant health and safety concerns that have not been sufficiently addressed in the DEIS.

A. Indian Point Energy Center ("IPEC") ("Indian Point")

CO14-26

A site that is of particular concern to SAPE members is the Indian Point Energy Center ("IPEC") ("Indian Point") in Buchanan, New York, located in close proximity to the proposed Project route. There are three existing gas pipelines that run under the Hudson River in Algonquin's Right-of-Way and abut the IPEC security barrier. The proposed route of the new 42-inch diameter high-pressure segment would be 0.5 miles south of the existing Right-of-Way, and would cross a portion of IPEC land less than a mile from the IPEC-protected security barrier around the main facility.

Title 10 to the Code of Federal Regulations ("C.F.R.") requires that nuclear power plants be appropriately protected against the dynamic effects and conditions that may occur outside the nuclear power plant. These events include the effects of explosion of hazardous material that may be associated with nearby industrial activities such as transportation routes such as pipelines. Since the Project's proposed route passes within the confines of the IPEC site the requirements of 10 C.F.R. §100.20 should have been considered in the DEIS.

Based almost entirely on data contained in Table 4.12.3-1 ("Existing or Potential Impact Range for the AIM Project"), the DEIS concludes that the proposed Project should not pose any new safety hazards to IPEC. However, this analysis falls short of

² Stakeholder Communications, US DEPT OF TRANS PIPELINE AND HAZ SAFETY ADMIN: <http://primis.rhmsa.dot.gov/comm/enports/safety/StuPSI.html?nocache=970imgtrans>

CO14-25

We disagree with the commentor's characterization of the risks of natural gas transmission. Section 4.12.1 of the EIS discusses federal safety standards for natural gas pipelines and how these standards are applied in HCAs. Section 4.12.3 of the EIS discusses safety-related concerns and other specific measures that Algonquin has proposed or that we are recommending to further address public safety concerns. We have updated section 4.12.2 of the EIS to also include the state-specific incident data for the past 20 years where the Project would be located. This data shows that over the past 20 years there have been a total of 13 incidents in New York, 0 in Connecticut and Rhode Island, and 2 in Massachusetts; and a total of two incidents in 2013 among all four states. Further, as stated in the EIS, the frequency of significant pipeline incidents is strongly dependent on pipeline age, primarily because pipelines installed pre-1971 were not required to use external protective coatings and a cathodic protection system and are more prone to corrosion. About 81.5 percent of the pipeline facilities in New York would replace pipeline that was installed pre-1971. Available data show natural gas transmission pipelines to be a safe, reliable means of energy transportation.

CO14-26

See the response to comment FA4-25.

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adequately addressing the safety-related risk of a major failure of a high-pressure natural gas pipeline in close proximity to IPEC. This failure cannot be ignored where other publicly available evaluations of natural gas pipeline hazards have concluded that a 16-inch diameter natural gas pipeline (at 50 psi) posed an undue risk to a nuclear enrichment center.³ In light of these potential dangers, the proposed Project's 42-inch diameter pipeline (at 850 psi) plainly poses an unacceptable risk to IPEC.

While we are pleased that FERC has addressed its concern regarding a pipeline explosion near the IPEC facility, its analysis of the safety-related information in connection with the Project's proximity to IPEC is woefully inadequate. Notably, for example, Algonquin is still awaiting receipt of a Hazards Analysis being performed by Entergy. Without an opportunity to review that Hazards Analysis, Algonquin has not made any final conclusions with regard to the safety of its proposed pipeline in the vicinity of IPEC. The absence of final conclusions regarding potential safety-related conflicts with IPEC suggests at the very least that the proposed Project requires additional analysis. The DEIS also fails to fully consider the risk due to seismic activity in the project area and fails to fully analyze the adequacy of Algonquin's emergency response procedures to a major explosion in the vicinity of IPEC.

Based on the foregoing, the DEIS *recommends* that prior to the end of the DEIS comment period, Algonquin file its final conclusions regarding any potential safety-related conflicts with IPEC based on the Hazards Analysis currently being performed by Entergy. SAPE respectfully requests that at minimum, Algonquin must be *required* to file its final conclusions regarding those potential safety-related conflicts and that Algonquin must make all further communication regarding potential safety-related conflicts with IPEC available to the public for review and comment.

The absence of any complete information on potential safety-related conflicts with IPEC deprives the public of a meaningful opportunity to comment on the proposed Project. A Supplemental DEIS must be prepared for review and public comment to analyze potential safety-related conflicts with IPEC. *See* Section 4.12.3.

B. Existing/Unknown Contaminated Sites

CO14-27

It is anticipated that the Project will traverse parts of New York State that are in close proximity to existing hazardous sites and facilities. In New York alone, the DEIS identifies three properties where a release of contaminants occurred and had the potential to impact soils along the proposed pipeline route.

Potential contaminants that may be encountered in soils proximate to these facilities include VOCs, petroleum hydrocarbons, polychlorinated biphenyls and other industrial chemicals. Additional soil contamination along the proposed Project route may result from hazardous material or fuel spills during construction and/or those occurring before construction in pre-existing contaminated areas. However, Algonquin has not

³ See, e.g., The Nuclear Regulatory Commission's 2004 hazard evaluation for the National Enrichment Facility (NEF) (Accession ML0424600718), available online.

CO14-27

See the responses to comments FA4-1 and SA1-5. Algonquin has developed an acceptable SPCC Plan that specifies cleanup procedures to minimize the potential for soil contamination from spills or leaks of fuel, lubricants, coolants, or solvents. Algonquin and its contractors would use the SPCC Plan to minimize accidental spills of materials that may contaminate soils, and to ensure that inadvertent spills of fuels, lubricants, or solvents are contained, cleaned up, and disposed of as quickly as possible and in an appropriate manner. Also, the Field Sampling Plan recommended by the FERC staff would be put into the public record at the time it is completed and filed; therefore, it would be available for public review.

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even completed its inventory of locations where sampling may be necessary and has not provided details to FERC on the protocols for any such additional sampling.

Based on the foregoing, the DEIS *recommends* that prior to construction of the Project, Algonquin file a Field Sampling Plan for potentially contaminated sites that could be encountered during construction, including, but not limited to, the locations of all proposed sampling, the number of samples to be taken and how and where the samples will be analyzed. SAPE respectfully suggests that Algonquin be required to make all further communication regarding the development of its Field Sampling Plan for potentially contaminated sites in New York available to the public for review and comment.

The absence of complete information on potential soil contamination along the proposed Project route deprives the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze the Field Sampling Plan for potentially contaminated sites in New York. *See* Section 4.2.2.6.

IV. The Project Will Affect Numerous Unique Areas And May Cause Destruction of Significant Environmental Resources

CO14-28

An astounding number of unique resource areas will be adversely affected by the Project, which will cross through several critical environmental areas.

The proposed pipeline will cross the Hudson River, an American Heritage River, as well as Harriman State Park, the Blue Mountain Reservation, the Sylvan Glen Park Preserve, Cheesecote Mountain, the Washington-Rochambeau National Historic Trail and a Village Park in the Village of Buchanan. The proposed pipeline will cross water bodies located within sub-basin level watersheds of the Lower Hudson Watershed in Rockland, Westchester and Putnam Counties. These include crossings at the Minisceongo Creek, Cedar Pond Brook and Dickey Brook, which serve as cold- and warmwater fisheries.

The exceptional value of these unique resource areas cannot be disputed. American Heritage Rivers, including the Hudson River, are so designated because they have characteristics that render them distinctive or unique. The public lands and resources protected at the state level that will be adversely affected by the Project are no less remarkable. For example, the Haverstraw to Stony Point Take-up to Relay segment will affect approximately 15 acres of diverse forested land across a section of the Harriman and Sterling Forests in Rockland County, New York. These areas support a wide variety of flora and fauna.

CO14-28

Potential impacts on Harriman State Park, Blue Mountain Reservation, Sylvan Glen Park Preserve, Cheesecote Mountain, the Washington-Rochambeau National Historic Trail, and the Village of Buchanan's Village Park are discussed in section 4.8.5.1 of the EIS. There would be no new permanent easement within Harriman State Park, Blue Mountain Reservation, Sylvan Glen Park Preserve, or Cheesecote Mountain; therefore, there would be no permanent impacts on these public lands. Some new permanent easement would be required on lands designated as part of the Washington-Rochambeau National Historic Trail, however, these areas are not on National Park Service-managed lands and are already collocated with modern paved roads, and the Project would not alter their character. Approximately 0.3 acre of new permanent easement would be required within Buchanan's Village Park; this new easement would be located on a portion of the property not used for public recreation, and an existing wooded area would provide a visual buffer between the new easement and the recreational facilities.

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A. Wetlands & Vernal Pools

CO14-29

Wetlands are areas that are inundated or saturated by surface water or groundwater at a frequency and duration to support and under normal circumstances do support, a prevalence of vegetation typically adapted for live in saturated soil conditions. Wetlands are a source of significant biodiversity and serve a variety of functions including flood control, wildlife habitat, recreational opportunities, and improving water quality.

The Project will impact approximately 25 acres of wetlands and 7 vernal pools in New York State. The Project will result in 77 wetland crossings in New York alone. In particular, the Project will impact a large wetland system (B13-RLR-W3) between about MPs 0.8 and 1.0 of the Haverstraw to Stony Point Take-up and Relay segment and the 2 vernal pools in Cortlandt, New York that are located within the temporary construction area for the Project.

Project construction activities can affect wetland resources in many ways. During construction, the primary direct impact of the Project on wetlands in New York would be the short and long-term alteration of wetland vegetation. Other direct impacts associated with the Project could include changes in wetland hydrology and water quality. These disturbances could result in altered biological activities and chemical conditions that could affect the establishment of native vegetation. Secondary impacts could include reduced riparian buffers, disturbance to adjacent habitats and incremental fragmentation. Notwithstanding the identified impacts, the DEIS concludes that the Project would not result in adverse impacts on the functions of the wetlands.

Based on the foregoing, the DEIS *recommends* that prior to construction beginning in the vicinity of the 2 vernal pools in New York, Algonquin file revised site-specific crossing plans incorporating any additional avoidance or mitigation measures for the two vernal pools as required by state agencies. SAPE respectfully requests that Algonquin be *required* to make all further communication regarding site-specific crossing plans for the two vernal pools in New York available to the public for review and comment.

Algonquin's failure to provide site-specific plans with respect to the crossing of two vernal pools in New York means that the public has had no meaningful opportunity for comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze site-specific crossing plans incorporating any additional avoidance or mitigation measures for the two vernal pools in New York. *See* Section 4.4.3.2.

1. Non-Saturated Wetlands & Construction Right-of-Way Width

CO14-30

Algonquin's Erosion and Soil Control Plan ("E&SCP") stipulates that construction right-of-way width in wetlands be limited to 75 feet and that all additional

CO14-29 See the responses to comments FA4-1, FA6-5, and CO14-8.

CO14-30 Appendix K of the EIS has been updated to identify saturated and non-saturated wetlands. See the responses to comments FA4-1 and FA6-5.

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temporary work space should be located at least 50 feet from wetlands except where an alternative measures has been requested and approved by FERC.

Not surprisingly, Algonquin identified numerous areas (in Table 4.4.4-1) where it believed that the 75-foot right-of-way was insufficient to accommodate its wetland construction – and that a wider right-of-way was necessary. Without considering the full scope of the environmental impacts on these non-saturated wetlands and without providing data or methodology to support its determination the DEIS simply concludes that Algonquin’s modification requests for a wider right-of-way are justified. Further, the DEIS acknowledges that Algonquin’s E&SCP was not consistent with FERC Procedures with regard to construction in site-specific non-saturated wetland conditions.

Based on the foregoing, the DEIS *recommends* that prior to the end of the DEIS comment period, Algonquin file its final site-specific information regarding the location of those wetlands it believed would meet the criterion of non-saturated conditions at the time of construction. SAPE respectfully requests that Algonquin make all further information regarding the location of those wetlands it believed would meet the criterion of non-saturated conditions at the time of construction available to the public for review and comment.

Algonquin’s failure to provide any site-specific information regarding the location of non-saturated wetlands in its E&SCP deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze any site-specific information regarding the location of wetlands believed to meet the criterion of non-saturated conditions at the time of construction. *See* Section 4.4.4.

2. Compensatory Mitigation Plan

CO14-31

The majority of the wetland impacts would be on PEM (Palustrine Emergent) and PSS (Palustrine Scrub-Shrub) wetlands, with only 17 acres of PFO (Palustrine Forested) wetland impacts. About 2.5 acres of PFO wetlands would be permanently converted to non-forested conditions as a result of the Project. Algonquin developed a Compensatory Mitigation Plan to provide compensatory mitigation for both temporary impacts and permanent conversion of wetlands to another cover type.

Even though the United States Army Corps of Engineers (“USACE”) NY District indicated what it would require in terms of on-site restoration for temporary wetland impacts and off-site mitigation for permanent conversion, Algonquin has not yet developed any final mitigation plan. Further, Algonquin has not even confirmed New York’s compensatory mitigation requirements for wetland impacts and has just assumed that the proposal submitted to the USACE NY District would be acceptable to the New York State Department of Environmental Conservation (“NYSDEC”). Notwithstanding these deficiencies, the DEIS concludes that impacts on most wetland resource would be minimal and would be temporary in duration.

CO14-31 See the responses to comments FA4-1, FA3-3, and FA6-5.

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CO14-31
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Based on the foregoing, the DEIS *recommends* that prior to beginning construction in New York, Algonquin file its final Compensatory Mitigation Plan, developed in consultation with USACE and NYSDEC and file documentation of consultation with these agencies regarding the Compensatory Mitigation Plan. SAPE respectfully suggests that Algonquin must be *required* to make all further communication regarding development of its final Compensatory Mitigation Plan available to the public for review and comment.

Algonquin's failure to finalize a Compensatory Mitigation Plan deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze any final Compensatory Mitigation Plan. *See* Section 4.4.5.

B. Harriman State Park – Site Specific Plan

CO14-32

Algonquin's existing right-of-way is currently recognized as existing scrub-shrub and open field wildlife habitats used by a variety of species inhabiting Harriman State Park and Blue Mountain Reservation.

Since Project construction is expected to have impacts on wildlife species that inhabit these habitats, Algonquin met with the Palisades Interstate Park Commission ("PIPC") in January 2014 to discuss the Project's impacts on Harriman State Park. As a result of the meeting, Algonquin agreed to conduct tree counts for the portions of the Project's pipeline construction located in the park to address compensation for tree removal. Algonquin still has not completed *any* tree surveys and continues to consult with the New York State Office of Parks Recreation and Historic Preservation ("NYSOPRHP") and PIPC.

Based on the foregoing, the DEIS *recommends* that, prior to construction of the Haverstraw to Stony Point Take-up and Relay segment, Algonquin file a site-specific plan for the Harriman State Park, including any avoidance or mitigation measures developed with the NYSOPRHP and PIPC. SAPE respectfully suggests that Algonquin be *required* to make all further communications with NYSOPRHP and PIPC regarding the site-specific plan for the Harriman State Park available to the public for review and comment.

The absence of any completed tree survey of Harriman State Park deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze any potential impact that the Project as currently envisioned will have on Harriman State Park. *See* Section 4.6.1.5.

C. St. Patrick's Church (Verplanck, New York)

CO14-33

St. Patrick's Church is located in the hamlet of Verplanck, New York. The Stony Point Take-up and Relay segment of the pipeline is expected to cross church property. A

CO14-32 See the responses to comments FA4-1 and CO3-8.

CO14-33 See the responses to comments SA1-8 and FA4-1.

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new easement would be required for this crossing as it deviates from the existing right-of-way. Without mitigation, project construction will result in significant adverse impacts to the church property. For example, the project will restrict church parking, interfere with access to the church, and result in noise and dust disturbances. Notably, however, Algonquin has not filed a site-specific construction plan for the church.

Based on the foregoing, the DEIS *recommends* that prior to the end of the DEIS comment period, Algonquin file a site-specific construction plan for the St. Patrick Church developed in consultation with church leadership. SAPE respectfully suggests that Algonquin be *required* to file its site-specific plan for the church property and to make all further communications regarding its site-specific construction plan for the St. Patrick's Church available to the public for review the public for review the public for review and comment.

The absence of any site-specific construction plan for the St. Patrick's Church deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze any potential impact that the Project would have on St. Patrick Church. *See* Section 4.8.5.1.

D. Buchanan-Verplanck Elementary School

The Buchanan-Verplanck Elementary School is a public elementary school serving about 300 people in Westchester County. The Stony Point to Yorktown Take-up and Relay segment of the Project would be located adjacent to the back portion of the school property between MPs 4.9 and 5.0.

CO14-34

The DEIS fails to adequately analyze the potential safety-related impacts of siting a 42-inch diameter high-pressure gas pipeline in close proximity to an elementary school.

CO14-35

However, the DEIS acknowledges that, since construction activity could potentially coincide with the school year, construction noise and dust could cause a disturbance to school operations. SAPE suggests that such disturbances are, more likely, a certainty that is unacceptable both in terms of the impact on children's health and their studies.

Based on the foregoing, the DEIS *recommends* that prior to the end of the DEIS comment period, Algonquin file a site-specific construction plan for the Buchanan-Verplanck Elementary School developed in consultation with school management. SAPE respectfully suggests that Algonquin be *required* to file its site-specific construction plan and to make all further communications regarding that site-specific construction plan for the Buchanan-Verplanck Elementary School available to the public for review and comment.

The absence of a site-specific construction plan for the Buchanan-Verplanck Elementary School deprived the public and, more to the point, the parents of affected students attending the school, of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze any potential impact that the Project would have on St. Patrick Church. *See* Section 4.8.5.1.

CO14-34 See the response to comment SA4-5.

CO14-35 See the responses to comments SA1-9 and FA4-1.

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E. Hudson River Crossing -- Horizontal Directional Drilling (“HDD”)

The Hudson River is the only major water body (greater than 100 feet wide) crossed by the pipeline. Algonquin plans to use the Horizontal Directional Drilling (“HDD”) crossing method at the Hudson River in New York.

CO14-36 In accordance with the prescribed (Delft Geotechnics) method, Algonquin completed a hydraulic fracture evaluation for the Hudson River HDD to estimate the maximum effective pressure (*i.e.*, drilling fluid pressure) that can be induced during a HDD operation within a particular soil. The results of the evaluation suggested that there exists a relatively high potential for hydraulic fracture in the soft sediments of the Hudson River HDD alignment. Despite the high risk of hydraulic fracturing using HDD, the DEIS concluded that the HDD method was an appropriate technique for installing the pipeline at the Hudson River crossing.

CO14-37 While the DEIS briefly assesses alternatives to the proposed route, it does so without providing any data to support its conclusion that the proposed route is the most suitable. Notably, Algonquin has not provided the Commission with a contingency plan that incorporates another location or another construction methodology for the Hudson River crossing. If the Project proceeds as planned and the HDD proves unsuccessful, Algonquin will have no alternative location or methodology identified in connection with the proposed Project’s largest water crossing. This is unacceptable.

Algonquin’s failure to develop a contingency plan that incorporates another location or another construction methodology for the HDD crossing of the Hudson River falls short of what is required under NEPA.

Algonquin’s failure to include an alternative location or methodology for the planned Hudson River crossing deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to fully examine any alternative plan considered by Algonquin for the HDD crossing of the Hudson River. *See* Section 4.4.3.

F. The Catskill Aqueduct Crossing

CO14-38 The proposed Stony Point to Yorktown Take-up and Relay segment crosses the Catskill Aqueduct. The Catskill Aqueduct is a part of the New York City water supply system. It brings water from the Catskill Mountains to Yonkers where it connects to other parts of the system.

As currently proposed, Algonquin would remove its existing 26” pipeline that currently crosses over the aqueduct and replace those removed section(s) with 42-inch diameter pipeline. Remarkably, however, Algonquin has still not finalized its planned crossing of the Catskill Aqueduct and is still in consultation with NYCDEP regarding the crossing and evaluating an alternative route that would relocate the segment to the south.

CO14-36 Section 3.5.4 of the EIS has been revised to include a discussion of alternative crossing methods for the Hudson River. Even given the relatively high potential for hydraulic fracture in the soft sediments of the Hudson River, the HDD crossing method would have far fewer impacts on the river and wildlife than alternative crossing methods (*i.e.*, an open-cut crossing). In addition, given the existing river current, if a hydraulic fracture were to occur the non-toxic drilling fluid would be quickly dispersed to a level where, given the river’s existing turbidity, would likely be unnoticeable.

CO14-37 See the responses to comments FA4-1, FA6-5, and SA11-6. An alternative crossing location for the Hudson River crossing is assessed in section 3.5.1 of the EIS and section 3.5.4 has been revised to include a discussion of alternative crossing methods for the Hudson River.

CO14-38 See the responses to comments FA4-1, FA6-5, and SA11-9.

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CO14-38
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Based on the foregoing, the DEIS *recommends* that prior to the end of the DEIS comment period, Algonquin file a site-specific crossing plan for the Catskill Aqueduct developed in consultation with the NYCDEP, containing the location relative to the aqueduct, the construction methods, timing of construction and any mitigation measures to minimize impacts. SAPE respectfully suggests that Algonquin be *required* to file its site-specific crossing plan for the Catskill Aqueduct and to make all further communication regarding the development of a site-specific crossing plan for the Catskill Aqueduct developed in consultation with the NYCDEP available to the public for review and comment.

Algonquin's failure to finalize its planned crossing of the Catskill Aqueduct deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to fully examine the extent of any impacts of the planned Catskill Aqueduct crossing. *See* Section 4.3.2.1.

G. Trench Dewatering

CO14-39

Project construction activities could negatively affect water resources in many ways. During construction, open trenches may accumulate water, either from seepage or drainage. Where dewatering becomes necessary, the water would be removed and directed into well-vegetated uplands. However, Algonquin's Erosion and Soil Control Plan ("E&SCP") does not address the need to isolate shorter portions of trench to reduce the volume of water handled at one time.

Based on the foregoing, the DEIS *recommends* that prior to the end of the DEIS comment period, Algonquin file additional details describing how it would minimize trench dewatering as recommended by the NYSDEC and file documentation of its consultations with NYSDEC. SAPE respectfully suggests that Algonquin be *required* to file a report setting forth such additional details and to make all further communication regarding trench dewatering developed in consultation with the NYCDEP available to the public for review and comment.

Algonquin's failure to fully address trench dewatering and the need to isolate shorter portions of trench to reduce the volume of water handled at one time in its E&SCP deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze any potential impact that the Project would have on trench dewatering. *See* Section 4.3.2.6.

CO14-40

V. State of New York Parkland Alienation

The proposed Project will intrude onto parkland in the State of New York, including the Blue Mountain Reservation, the Sylvan Glen Park Reserve (note: Granite Knolls West is incorrectly considered the same as Sylvan Glen Park Reserve in the DEIS and they are not the same), Cheesecote Mountain and a Village Park in the Village of Buchanan.

CO14-39 See the responses to comments FA4-1, FA6-5, and SA11-10.

CO14-40 See the response to comment SA4-14.

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CO14-40
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New York law is well settled: dedicated park areas in New York are impressed with a public trust for the benefit of the people of the State. That proposition is reflected both in New York case law and in New York statutes. The leading New York decision on this issue is *Williams v. Gallatin*, 229 N.Y. 248 (1920), in which the Court of Appeals held that legislative approval is required when there is a substantial intrusion on parkland for non-park purposes. This requirement, moreover, exists regardless of whether there has been an outright conveyance of title and regardless of whether the parkland is ultimately to be restored. Since *Williams*, New York courts have reaffirmed the principle that parkland is impressed with a public trust, requiring legislative approval before it can be alienated or used for an extended period for non-park purposes.

Notwithstanding the still-binding legal precedent requiring legislative authorization, the Commission takes the opposite position: that the proposed Project would fall within recognized “*de minimis*” exceptions to the rule. Yet the cases cited by the Commission in support of its position are distinguishable from the facts here, in that each of those cases involved land that was found *not* to be parkland.

Respectfully, SAPE believes that the proposed Project as currently envisioned does not fall within any recognized *de minimis* exception and that the proposed Project requires legislative approval for its intrusions onto New York state parkland. In any case, the issue is not one for the parties or the Commission to decide; only a court can properly make such determination in accord with *Williams* and its progeny. See Section 4.8.5.1.

VI. The Project Will Have Cumulatively Significant Impacts on the Environment

NEPA mandates that a proper EIS include a full discussion of the cumulative impacts of a proposed project. See 40 C.F.R. §1508.25(a)(2); *Kleppe v. Sierra Club*, 427 U.S. 390, 413 (1976) (“Cumulative environmental impacts are, indeed, what require a comprehensive impact statement”). An EIS must include the cumulative effects of projects if those projects are “interrelated and functionally interdependent” to the proposed action. *Stewart v. Potts*, 996 F.Supp. 668, 683 (S.D. Texas 1998). Courts have been very clear that projects must be evaluated together whenever “proceeding with one project, will, because of functional or economic dependence, foreclose options or irretrievably commit resources to future projects. *Fritiofson v. Alexander*, 772 F.2d 1225, 1241 n. 10 (5th Cir. 1985). Under 40 C.F.R. §1508.7, cumulative impacts are defined as:

the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

CO14-41

The DEIS’s treatment of cumulative impact falls short of NEPA requirements. The DEIS fails to consider the full scope of impacts. It also assesses the identified impacts without providing any detailed or quantified data to support the analysis.

CO14-41

We disagree. If the Project is approved, Algonquin would be required to comply with the environmental protections contained in the FERC Order and other permits. Further, because the Project would be subject to permitting by other agencies and to the regulations in other statutes, it is reasonable to assume the Project’s compliance with these permits and regulations under the NEPA analysis. See also the responses to comments FA3-5 and LA23-16.

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CO14-41
(cont'd)

Finally, the DEIS impermissibly relies entirely on presumed compliance with permitting requirements and mitigation plans to justify its conclusion that most of the adverse impacts environmental impacts associated with the Project would be reduced to less than significant levels.

Although it includes a small section on cumulative impacts, the DEIS failed to consider the cumulative environmental impacts associated with the planned Atlantic Bridge Project and the Access Northeast Project. Remarkably, the DEIS failed to even mention the Access Northeast Project. Since the AIM Project, the Atlantic Bridge Project and the Access Northeast Project are connected actions and thus "interrelated and functionally interdependent," the present DEIS does not suffice to analyze their cumulative effects. *Stewart*, 996 F.Supp. at 683.

The DEIS represents that "three types of projects (past, present and reasonably foreseeable projects) could potentially contribute to a cumulative impact when considered with the proposed AIM Project." However, the DEIS fails to consider the full scope of connected and similar actions as well as the cumulative impacts arising from the full scope of those actions. *See* Section 4.4.3.2.

VII. The DEIS Improperly Segments the AIM Project from Connected Actions

CO14-42

One of the DEIS's principle deficiencies is that it improperly segmented the AIM Project from other connected actions which are part of Spectra/Algonquin's larger development plan to expand its existing pipeline system. Segmentation is a means of circumventing NEPA's purpose by dividing a larger action into smaller proposed actions, thereby minimizing the environmental consequences of a larger plan by dividing it into several proposals for analysis in separate NEPA documents. *See Citizens' Comm. to Save Our Canyons v. U.S. Forest Serv.*, 297 F.3d 1012, 1028 (10th Cir. 2002).

Indeed, Algonquin and its parent company, Spectra Energy, plan to modify other parts of its existing interstate pipeline system in expansions known as the Atlantic Bridge Project and the Access Northeast Project. While no formal applications have yet been filed, the DEIS acknowledges that the Atlantic Bridge Project would be similar in scope to the AIM Project and would involve facilities in the same region of influence. Nevertheless, the DEIS fails to consider the cumulative impacts of the Atlantic Bridge Project since it would "not occur at the same time" as the AIM Project and its details were unknown.

Remarkably, the DEIS makes no reference whatsoever to the Access Northeast Project, a \$3 billion dollar Spectra project that would expand the existing Algonquin pipeline from New Jersey through New York and Connecticut to Everett, outside of Boston. The Access Northeast Project is specifically intended to complement the AIM and Atlantic Bridge projects and would reportedly boost capacity on Spectra's Algonquin (and Maritimes) pipelines by as much as 1 billion cubic feet a day, by installing new larger diameter pipelines on existing routes. FERC's failure to analyze the Atlantic

CO14-42 See the responses to comments FA3-5 and LA23-16.

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Bridge Project and the Access Northeast Project as connected actions raises serious questions about the adequacy of the DEIS's cumulative impacts analysis.

As explained below, the Atlantic Bridge Project and the Access Northeast Project are clearly connected to the AIM Project, and thus must be reviewed, pursuant to NEPA, in the same EIS, particularly with regard to potential cumulative effects associated with the several projects. *See* 40 C.F.R. §1508.25(a).

To determine whether the AIM Project has been improperly segmented, the proper inquiry is whether the Atlantic Bridge Project and the Access Northeast Project are connected for the purposes of NEPA. Under 40 C.F.R. 1508.25(a)(1), actions are connected, meaning that they must be analyzed under the same EIS, if they:

- i) Automatically trigger other actions which may require environmental impact statements;
- ii) Cannot or will not proceed unless other actions are taken previously or simultaneously; or
- iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

The purpose for the rule against segmentation is to "prevent an agency from dividing a project into multiple actions, each of which individually has an insignificant environmental impact, but which collectively have a substantial impact." *Wilderness Workshop v. BLM*, 531 F.3d 1220, 1228(10th Cir. 2008) (emphasis added); *Great Basin Mine Watch v. Hankins*, 456 F.3d 955, 969 (9th Cir. 2006). In other words, the rule prevents applicants and agencies from thwarting their NEPA obligations by improperly segmenting projects into smaller components in order to avoid considering their collective impact.

Under this definition, the AIM Project, the Atlantic Bridge Project and the Access Northeast Project are plainly connected actions that must be considered together under the same EIS. The primary collective purpose of these interdependent projects is to increase Spectra/Algonquin's existing pipeline capacity and to provide it access to growing natural gas supply and demand markets.

The fact that there is no formal application currently filed by Algonquin for the Atlantic Bridge Project or the Access Northeast Project should not preclude a finding that the NEPA process was unlawfully segmented. Algonquin should not be allowed to circumvent heightened environmental scrutiny by timing its applications to FERC in an effort to manipulate the NEPA process to avoid a cumulative impact analysis of its larger development plans.

In short, we believe that the AIM Project is a wholly arbitrary subdivision of a larger development project, apparently created for the purpose of thwarting NEPA review of the cumulative effects of the project in its entirety. The DEIS fails to evaluate the AIM Project in conjunction with the Atlantic Bridge Project and the Access Northeast Project even though the three projects are clearly connected and will unavoidably create a

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greater cumulative effect than might be anticipated by a focused or limited review of any one of the interrelated segments.

In *Delaware Riverkeeper Network v. FERC*, No. 13-1015 (D.C. Cir. 2014), the D.C. Circuit recently applied NEPA's segmentation policy to a pipeline project. Giving considerable deference to the applicable NEPA regulations on segmentation (40 C.F.R. §1508.25), requiring federal agencies to consider the effect of "connected actions" and "similar actions" when carrying out their responsibilities under NEPA, the Court found that where four upgrades were "physically, functionally and financially connected and interdependent," they warranted a single NEPA analysis. We suggest that this analysis should be applied to the Project.

In light of the foregoing, we question why FERC would allow the AIM Project, the Atlantic Bridge Project and the Access Northeast Project to be submitted in a piecemeal fashion without a full analysis of their cumulative impacts. We urge FERC to reevaluate Spectra/Algonquin's overarching development plans to markedly expand its existing pipeline infrastructure in New York, Connecticut, Rhode Island and Massachusetts. By omitting from the DEIS any substantive discussion of the Atlantic Bridge Project and the Access Northeast Project, FERC has effectively failed to take into account the cumulative impacts of connected projects, and has thus acted contrary to NEPA and thwarted effective review by segmenting the AIM Project.

By failing to consider the Atlantic Bridge Project and the Access Northeast Project as interdependent pieces of Spectra/Algonquin's larger development plan to expand its existing pipeline infrastructure, FERC facilitated the unlawful segmentation of the AIM project.

The DEIS's failure to consider the cumulative impacts of the Atlantic Bridge and Access Northeast projects is not cured by its cursory treatment of twelve (12) other existing or proposed projects evaluated for potential cumulative impacts analysis. Notably, the DEIS fails to provide any substantive information about the additive impacts of those actions, and instead only provides brief descriptions of the actions in Table 4.13-1. Yet the information in Table 4.13-1 fails to provide anything substantive about the projects listed or any meaningful analysis of their potential for cumulative impacts.

As a result, the DEIS is inadequate in considering the combined environmental impacts of related existing and reasonably foreseeable pipelines within the Commission's jurisdiction, and a new EIS must be prepared that includes an analysis of the cumulative impacts of those projects, including the Atlantic Bridge Project and the Access Northeast Project.

A. Marcellus Shale – Natural Gas Development

CO14-43

Remarkably, the DEIS fails to address the effect of the Project together with the existing or reasonable foreseeable gas development activities, most notably hydraulic fracturing that has already been determined to have impacts on seismic activity. Instead, the DEIS omits any substantive discussion of foreseeable gas development, concluding

CO14-43 See the response to comment FA4-24.

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that the resources that may be affected by shale development would not be affected by the Project and the Project would not be affected by the development in the shale region.

On its face, this conflicts with NEPA policy and federal regulation, which require an analysis of the full range of a project's impacts "whether direct, indirect, or cumulative." (40 C.F.R. 1508.8). Under NEPA, indirect impacts are defined as those that occur "later in time or farther removed in distance" and may include

...growth inducing effects and other effects related to induced changes in the pattern of land use ... and related effects on air and water and other natural systems, including ecosystems. (40 C.F.R. §1508.8).

Despite this definition, the DEIS fails to address the indirect impacts of induced gas development, specifically the extent to which the presence of the proposed Project will encourage and facilitate the development of natural gas infrastructure. The DEIS also fails to consider how environmental impacts of the proposed Project may be cumulated with the impacts of gas development in the Marcellus shale region. FERC incorrectly limits its analysis to short- and long-term impacts resulting from construction of the proposed Project, ignoring the potential for future induced development of related infrastructure in New York.

Natural gas development in and around the pipeline's service area, extending into the Marcellus shale region, is a reasonably foreseeable consequence of the Project, and its effects must be considered as cumulative impacts. To the extent the DEIS considers Marcellus Shale activities, however, it fails to provide any quantified or detailed account of such activities, or consider their cumulative impacts.

While the DEIS includes a general acknowledgement that the Commission received numerous comments during the scoping for the Project about the cumulative impacts of natural gas development (including hydraulic fracturing) in the Marcellus shale region, it simply concludes, without discussion, that the local resources affected by natural gas development activities would not be affected by the Project since they would occur more than ten miles from the Project construction area, outside the sub-watersheds crossed by the Project, and outside the air quality control regions for the Project compressor stations.

The absence of any meaningful analysis in the DEIS regarding the cumulative impacts of natural gas development failed to take the requisite hard look at the environmental impacts of the proposed Project. A revised DEIS must be prepared to detail and analyze the cumulative impacts of natural gas development (including hydraulic fracturing) in the Marcellus shale region, including impacts from other reasonably foreseeable activities such as the construction of additional pipeline, access roads, compressor stations and other infrastructure. *See* Section 4.13

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VIII. The Project May Adversely Affect Several Endangered and Threatened Species and Their Habitat

CO14-44 The U.S. Fish and Wildlife Service (“FWS”) identified seven federally listed threatened or endangered species that are known to be present in the Project area. For three of the seven species identified (the Indiana bat, Northern long-eared bat and New England Cottontail) the DEIS cited incomplete survey results. For surveys that do exist for the remaining species, the DEIS fails to describe the methodology used or to identify or analyze any data. Further, the DEIS repeatedly recognizes the loss of habitat or changes to other vegetation but fails to carefully examine the impact of those losses on endangered and threatened species.

A. Indiana Bat

CO14-45 The inadequacy of survey results is particularly apparent for the Indiana bat, a federally listed endangered species that may be impacted by the Project. Notably, the FWS identified a section of the Stony Point to Yorktown Take-up and Relay segment as having the potential to provide suitable summer habitat for the Indiana bat. Yet despite the likely presence of Indiana bats in the Project area, Algonquin has still not completed any survey of the area for bats.

While the DEIS states that Algonquin is in consultations with the FWS to *plan* surveys and develop and implement mitigation measures, the fact that there is still no complete survey of the Project in regard to this endangered species is astounding. Further, the DEIS fails to provide any meaningful analysis of the potential for habitat destruction. The incomplete survey results, lack of habitat destruction analysis and the lack of any suggested avoidance or mitigation measures, clearly demonstrate that the DEIS is inadequate.

Based on the foregoing, the DEIS *recommends* that prior to the end of the DEIS comment period, Algonquin file all survey results, any avoidance or mitigation measures developed in consultation with the FWS and a statement regarding Algonquin’s intent to comply with those measures.

FERC’s framing here as a mere “recommendation” what should be a necessary precondition casts doubt on whether measures to mitigate harms to the species in the project area will ever be undertaken. Although a segment of the Project has been identified as having the potential to provide suitable summer habitat for the Indiana bat, FERC has not received complete survey results, nor has it sufficiently addressed habitat destruction or mitigation measures to justify approval of this Project at this time. SAPE respectfully requests that Algonquin make all further communication regarding the Indiana bat developed in consultation with the FWS available to the public for review and comment.

Algonquin’s failure to have any completed survey of the Project area for the presence of the Indiana bat deprived the public of a meaningful opportunity to comment

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CO14-44 See the response to comments SA11-13 and CO3-13. Algonquin and FERC have consulted with the FWS for the New England Cottontail. As discussed in section 4.7.1.3 of the EIS, the FWS indicated that the final rule and list status for New England Cottontail would not likely occur until after the AIM Project completed construction and indicated that the federal Candidate species was not an issue for the Project.

CO14-45 See the response to comment FA4-1. Section 4.7.1 of the EIS has been revised to clarify that survey reports for all federally listed and state-listed species were sent to the appropriate federal and state agencies for review. Due to the sensitive nature of protected species occurrence information and specific recommendations from the FWS for some species, these survey reports will not be included as an appendix in the EIS for the protection of the species.

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CO14-45
(cont'd) on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze any potential impact that the Project would have on the Indiana bat. See Section 4.7.1.2.

CO14-46 B. Bog Turtle

The bog turtle is a federally listed threatened turtle that is potentially present within the Project area. Based on information from the FWS, bog turtles could be present in suitable wetlands along the proposed Southeast to MLV 19 Take-up and Relay segment in Putnam County, New York. Notably, consultation with the FWS identified a known bog turtle habitat within sixteen (16) miles of the proposed Project facilities in New York.

Although Algonquin completed surveys for bog turtles and identified a known bog turtle habitat in the vicinity of the Project area, the DEIS simply concludes without explanation that the Project would not likely affect the bog turtle.

Algonquin's failure to adequately explain its methodology in reaching a determination that bog turtles would not likely be affected by the Project deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze any potential impact that the Project would have on the bog turtle. See Section 4.7.1.2.

CO14-47 C. Northern Long-eared bat

The northern long-eared bat, currently proposed for federal listing as an endangered species, may be impacted by the Project. Yet despite the possibility that Northern Long-eared bats are present in the Project area, Algonquin has still not completed any survey of the area.

While the DEIS states that Algonquin will be conducting surveys in connection with this species at the same time as the surveys it plans for the Indiana bat (see above), the incomplete results clearly demonstrate that the DEIS is inadequate.

Based on the foregoing, the DEIS *recommends* that prior to the end of the DEIS comment period, Algonquin file its survey results, any avoidance or mitigation measures developed in consultation with the FWS and a statement regarding Algonquin's intent to comply with those measures.

FERC's framing here as a "recommendation" what should be a necessary precondition casts doubt on whether measures to mitigate harms to the species in the project area will ever be undertaken and if so, whether such measures will be effectively designed. Although Algonquin continues to consult with the FWS to assess the potential occurrence of the Northern long-eared bat in the Project area, FERC has not received complete survey results, nor has it sufficiently addressed habitat destruction or mitigation measures to justify approval of this Project at this time. SAPE respectfully suggests that

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CO14-46 Comment noted. Section 4.7.1.2 of the EIS has been revised to explain that Algonquin retained FWS and NYSDEC approved bog turtle surveyors for the Hudson Valley, used the accepted FWS protocols for conducting bog turtle Phase 1 and 2 surveys in New York, and that the surveys were conducted in close coordination with the FWS. The FWS specifically requested that Algonquin file the bog turtle survey results with FERC as confidential to protect the species potential locations as a protection against threats of illegal collection and trade. The results of consultations with the FWS are presented in section 4.7 of the EIS.

CO14-47 See the responses to comments CO3-13, CO14-45, and CO14-45.

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Algonquin be *required* to make all further communication regarding the Northern long-eared bat developed in consultation with the FWS available to the public for review and comment.

Algonquin's failure to have any survey completed of the Project area for the presence of the northern long-eared bat deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze any potential impact that the Project would have on the northern long-eared bat. See Section 4.7.1.3.

D. Migratory Birds

CO14-48

Potential impacts of the Project on migratory birds, including FWS Birds of Conservation Concern (BCC)-listed birds, would include temporary and permanent loss of habitat associated with the removal of existing vegetation during construction. Noise and other construction activities could also potentially affect foraging and breeding activities that occur during the nesting season. Migratory birds could also be affected by the operation and maintenance of the new facilities, including a reduction in habitat, potential increase in parasitic bird species, edge effects and ongoing disturbances associated with maintenance.

The Haverstraw to Stony Point Take-up and Relay segment of the Project as currently envisioned runs adjacent to and across the section of the Harriman and Sterling Forests' Important Bird Area (IBA) in Rockland County, New York. This diverse forested area supports a healthy representative breeding community of migratory birds which may be potentially harmed or disturbed by impacts associated with the Project, including tree removal and construction related disturbances.

While the DEIS outlines mitigation measures for Algonquin to implement to potentially minimize the proposed Project's impact on migratory birds, it states that the FWS is still reviewing the AIM Project for migratory bird impacts, and Algonquin is still in consultations with the FWS and NYSDEC. The absence of complete information as to the potential impacts of the Project on migratory birds demonstrates that the DEIS is incomplete.

Based on the foregoing, the DEIS *recommends* that prior to the end of the DEIS comment period, Algonquin file any updated consultations with the FWS Field Office in New York regarding migratory birds including and avoidance measures developed.

FERC's framing here as a "recommendation" what should be a necessary precondition casts doubt on whether effective measures to mitigate harms to the species in the project area will ever be undertaken. Although Algonquin continues to consult to assess the potential impact on migratory birds in the Project area, FERC has not received complete survey results, nor has it sufficiently addressed habitat destruction or mitigation measures to justify approval of this Project at this time. SAPE respectfully suggests that

CO14-48 See the responses to comments FA4-1, FA4-26, and SA11-14.

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Algonquin be *required* to make any further communication regarding migratory birds developed in consultation with the FWS available to the public for review and comment.

The absence of any final assessment by the FWS regarding the potential impact of the Project on migratory birds deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze any potential impact that the Project would have on migratory birds. *See* Section 4.7.2.

E. Bald Eagles

CO14-49

As of March 2013, adult and immature bald eagles were observed flying along the shorelines and hillsides of the Hudson River and an active nest was observed less than 3 miles from the Project. However, the DEIS does not include any substantive analysis of the impacts the Project would have on bald eagle habitats.

While the DEIS states that Algonquin is in consultation with the FWS and NYSDEC to discuss survey results and to develop and implement appropriate avoidance and mitigation measures to avoid impacts on bald eagles in the Project area, the absence of complete information on the bald eagle suggests that the DEIS is inadequate.

Based on the foregoing, the DEIS *recommends* that prior to the end of the DEIS comment period, Algonquin file any updated consultations with the FWS and NYSDEC regarding bald eagles including and avoidance measures developed.

FERC's framing here as a "recommendation" what should be a necessary precondition casts doubt on whether measures to mitigate harms to the species in the project area will ever be undertaken. Although Algonquin continues its consultation to assess the potential impacts on bald eagles in the Project area, FERC has not received complete survey results, nor has it sufficiently addressed habitat destruction or mitigation measures to justify approval of this Project at this time. SAPE respectfully requests that Algonquin make any further communication regarding bald eagles developed in consultation with the FWS or NYSDEC available to the public for review and comment.

Algonquin's failure to assess the potential impacts on bald eagles in the Project area deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze any potential impact that the Project would have on bald eagles. *See* Section 4.7.3.

CO14-50

F. Timber Rattlesnakes

The timber rattlesnake is a state-listed threatened species that inhabits deciduous forest in rugged terrain. According to NYSDEC, timber rattlesnakes are known to be present along the Stony Point to Yorktown Take-up and Relay segment of the Project. Possible impacts to the timber rattlesnake include alteration of forested habitat and direct impacts including mortality. Since Algonquin would not be able to adhere to NYSDEC's

CO14-49 See the responses to comments FA4-1 and SA11-15.

CO14-50 See the responses to comments FA4-1 and SA11-16.

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CO14-50
(cont'd) seasonal restrictions for timber rattlesnakes, the DEIS outlined additional measures to be implemented by Algonquin to mitigate impacts to rattlesnakes.

Yet despite the likely presence of timber rattlesnakes along the Project area, Algonquin has still not completed its survey for snakes or performed any included any analysis of habitat destruction.

While the DEIS states that Algonquin is engaged in consultation with the NYSDEC to identify potential existing habitats in construction work areas in Rockland County and determine proper mitigation measures, the fact that there is still no complete survey of the Project in regard to this state-listed threatened species is disturbing. In addition, the DEIS fails to provide any meaningful analysis of the potential for any habitat destruction.

Based on the foregoing, the DEIS *recommends* that Algonquin file any results for timber rattlesnakes habitat, permit requirements, and avoidance or mitigation measures developed in consultation with the FWS and NYSDEC regarding timber rattlesnakes.

FERC's framing here as a "recommendation" what should be a necessary precondition casts doubt on whether measures to mitigate harms to the species in the project area will ever be undertaken. Although Algonquin continues to consult to assess the potential impacts on timber rattlesnakes in the Project area, FERC has not received complete survey results, nor has it sufficiently addressed habitat destruction or mitigation measures to justify approval of this Project at this time. SAPE requests that Algonquin make any further communication regarding timber rattlesnakes developed in consultation with the FWS or NYSDEC available to the public for review and comment.

Algonquin's failure to have any survey completed of the Project area for the presence of timber rattlesnakes deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze any potential impact that the Project would have on timber rattlesnakes. *See* Section 4.7.5.1.

G. Coastal Zone Management

CO14-51 The Stony-Point to Yorktown Take-up and Relay segment crosses the coastal zone management area associated with the Hudson River in the Town of Stony Point and in the City of Peekskill. The Project plans to cross the Hudson River using the HDD method to avoid impacts on aquatic resource and potential impacts on critical environmental areas.

Algonquin filed its consistency assessment application with the New York State Department of State ("NYSDOS") in February 2014 describing how the Project would be consistent with state coastal policies as well as policies of the town approved waterfront revitalization programs. To date, however, NYSDOS has yet to approve Algonquin's consistency assessment application.

CO14-51 See the response to comment SA1-6.

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Since NYSDOS has not yet concurred with Algonquin’s consistency assessment application, the DEIS fails to address whether or not the Project would or would not be consistent with the above mentioned coastal zone management policies to justify approval of this Project at this time.

Based on the foregoing, the DEIS *recommends* that Algonquin file documentation of concurrence from the NYSDOS that the Hudson River crossing is consistent with New York coastal policies, including the Stony Point and Peekskill waterfront revitalization plans. SAPE requests that Algonquin be *required* to make any further communication regarding concurrence from the NYSDOS that the Hudson River crossing is consistent with New York coastal policies available to the public for review and comment.

Algonquin’s failure to have its consistency assessment application approved by NYSDOS deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze whether or not the proposed Project’s Hudson River crossing is consistent with New York coastal policies. *See* Section 4.8.4.1.

IX. Analysis of Air Quality and Climate Change Impacts is Inadequate

CO14-52

As discussed below, the DEIS dramatically underestimates the extent to which Project construction and operation will emit air pollutants and fails to present a comprehensive analysis of the direct, indirect and cumulative effects of the Project on air quality.

The DEIS acknowledges that construction and operation of the proposed Project will result in significant emissions of various air pollutants, including NO_x, VOCs, carbon monoxide, particulate matter, sulfur dioxide and GHGs. These pollutants affect air quality—and therefore human health—in a variety of ways. NO_x is a precursor of both ozone and fine particulate matter. VOCs are also an ozone precursor. Fine particulate matter is linked to increased heart attacks, aggravated asthma and decreased lung function, and for people with heart or lung disease, premature death. Ozone exposure can lead to coughing, chest pain and throat irritation. It also exacerbates pre-existing bronchitis, emphysema and asthma and can reduce lung function.

With the exception of sections exploring whether air emissions trigger regulatory requirements, the DEIS does not undertake any analysis of the potential impacts on those who may be at risk of exposure to the HAPs. FERC’s failure to undertake any meaningful analysis of the effects of emissions from Project construction and operation is particularly concerning, given that the proposed Project would result in significant emissions of NO_x and VOCs. *See* Section 4.4.3.2.

CO14-53

A. Compressor Stations / M&R Stations

The compressor stations in New York are already major sources of Hazardous Air Pollutants (HAPs). Peer-reviewed scientific studies indicate that emissions from

CO14-52 See the responses to comments SA4-1, SA4-9, and CO12-11.

CO14-53 We disagree with the commentors characterization of emission increases at the Southeast and Stony Point Compressor Stations. See the responses to comments SA4-1, SA4-9, SA11-4, LA5-1, and CO12-11.

CO14 – Stop the Algonquin Pipeline Expansion (cont’d)

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CO14-53
(cont'd)

compressor stations and other shale gas infrastructure are associated with negative health impacts. Current emissions will be significantly increased by the expansion of the Southeast and Stony Point compressor stations, and the region including Putnam, Rockland and Westchester counties is already considered a non-attainment zone for air quality standards according to the United States Environmental Protection Agency (USEPA).

Submissions made by Algonquin (Resource Report #9 in Docket CP12-96-000) do not reflect the aggregate (existing or proposed) and cumulative emissions from compressor stations, metering stations and pipelines for the Project. In addition, modifications are needed to the M&R stations in Peekskill, Cortlandt and Stony Point, New York, to connect the existing valve to the new 42-inch diameter pipeline. However, the design modifications are still not complete.

Without considering any proposed design modification to the M&R stations, the DEIS largely dismisses the impacts of air pollution, and concludes that modeling analysis for all modeled pollutants would not contribute to a violation of the National Ambient Air Quality Standards (NAAQS). Since Algonquin's M&R design modifications are not yet complete, the DEIS could not have addressed the unknown.

Based on the foregoing, the DEIS *recommends* that prior to the end of the DEIS comment period, Algonquin provide an update regarding the air permitting requirements associated with the modification to the M&R stations in New York, as well as any application filed with NYSDDEC regarding air permitting/registration. SAPE requests that Algonquin be *required* to provide its update requiring the air permitting requirements and that it be further *required* to make any further communication regarding the air permitting requirements associated with the modification to the M&R stations in New York available to the public for review and comment.

The absence of any completed design modifications for the M&R stations in New York deprived the public of a meaningful opportunity to comment on the proposed Project. A revised DEIS must be prepared for review and public comment to analyze the final design modifications for the M&R stations in New York. *See* Section 4.11.1.2.

B. Fugitive Emissions

CO14-54

The DEIS fails to adequately address fugitive emissions from the proposed Project. The DEIS provides an annual estimate of these emissions in Table 4.11.1-13, but that table fails to provide any basis for those estimates. In particular, the DEIS provides no analysis of potential malfunctions of either pipeline or compressors that could lead to unintended emissions of various HAPs. This is a significant oversight, given that the PHMSA reported *nearly 300 significant pipeline incidents* in 2013. The data makes clear that spills, explosions and other unintended releases of pollutants from pipelines occur with a measurable degree of frequency. The resulting—and equally predictable—emissions should be taken into account as part of the DEIS's assessment of the impacts associated with the Project.

24

CO14-54

The commentors characterization of 300 pipeline incidents must also be considered against the 302,825 miles of natural gas transmission pipeline. Not only are pipelines a safe, reliable means of energy transportation, but the risk of an incident at any given location is very low. However, table 4.11.1-13 of the EIS presents an estimate of emissions from pipeline operations, which includes fugitive emissions and non-routine emissions, including unintended releases, such as blowdown events. Section 4.11.1.3 of the EIS has been updated to clarify that this table also includes non-routine pipeline emissions. Tables 4.11.1-7 to 4.11.1-11 of the EIS also provides estimates of compressor station emissions, including blowdowns that occur at compressor stations.

CO14 – Stop the Algonquin Pipeline Expansion (cont'd)

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CO14-54
(cont'd)

The DEIS's failure to adequately address fugitive emissions from the proposed Project and further, its failure to provide any data or methodology to support its conclusion, deprived the public of a meaningful opportunity to comment on the proposed Project and failed to take the requisite hard look at the proposed Project's environmental impact. A revised DEIS must be prepared for review and public comment to adequately address fugitive emissions from the proposed Project. See Section 4.11.1.3.

CO14-55

C. Cumulative Impacts on Air Quality

As discussed *supra*, the DEIS's analysis of cumulative impacts of the proposed Projects on air quality is insufficient. The DEIS concedes that the construction and operation of the Project will contribute cumulatively to air quality impacts, but concludes that it does not anticipate that the construction and operation of the proposed Project facilities will have a significant impact on air quality. Although it is unclear exactly to what extent the DEIS has calculated the potential emissions from other projects and included them in its cumulative impact analysis, the DEIS nonetheless discounts the impacts of those projects without offering any justification for such discounting of those dangers.

The DEIS's failure to adequately address the cumulative impacts of the proposed Projects on air quality deprived the public of a meaningful opportunity to comment on the proposed Project. Moreover, the DEIS failed to take the requisite hard look at the proposed Project's environmental impact. A revised DEIS must be prepared for review and public comment to adequately address the cumulative impacts of the proposed Projects on air quality. See Section 4.13.7.

CO14-56

D. Climate Change

The DEIS fails to undertake a meaningful analysis of the climate change impacts of GHG emissions, including fugitive GHG emissions, which would result from the construction and operation of the Project. The DEIS concludes, without pointing to any evidence in support of its conclusion, that emission of GHGs from the proposed Project would not have any direct impacts on the climate change in the Project area. As discussed *supra*, this conclusion fails to take into account the likelihood of a significant incident with the pipeline, resulting in a spill, leak, explosion or other unintended emission of GHGs.

The absence of any meaningful analysis of the climate change impacts of GHG emissions associated with this Project deprived the public of a meaningful opportunity to comment on the proposed Project. The DEIS, moreover, failed to take the requisite hard look at the proposed Project's environmental impact. A revised DEIS must be prepared for review and public comment to analyze the climate change impacts of GHG emissions associated with this Project. See Section 4.13.8.

CO14-55

Section 4.13.7 of the EIS presents a cumulative impact analysis that is appropriate for the scale of the proposed Project and the timeframe during which temporary and permanent impacts would occur. Section 4.13.7 has been updated to include potential cumulative air quality and climate benefits that may occur as a result of the proposed Project.

CO14-56

See the responses to comments CO12-13 and CO14-54.

CO14 – Stop the Algonquin Pipeline Expansion (cont’d)

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CO14-57 VII. Environmental Justice

In New York, environmental justice communities are defined according to the following thresholds: communities where 23.6 percent of the individuals within a given census block are living below the poverty line as low-income populations; and/or communities where minorities comprise more than 51.1 percent of the population within a given census block as minority populations. Low income communities and communities of color have historically been overburdened as a result of air pollution from energy-generating facilities. In particular, the proposed Project would have adverse impacts on neighborhoods within a 12.5-mile radius of downtown Peekskill, New York, an area that is already home to more than its fair share of hazardous waste facilities.

The primary adverse impacts on the environmental justice communities associated with the construction of the Project would be the temporary increases in dust, noise and traffic from the Project construction. These adverse impacts would occur along the entire pipeline route. However, the DEIS does not provide sufficient financial analysis of the Project to effectively determine if the Project would result in a disproportionately high and adverse impact on these minority and low-income populations.

Other than acknowledging that two census block groups crossed by the Project in Westchester County have minority populations greater than the minority threshold, the DEIS lacks any meaningful analysis of environmental justice issues. The lack of any discussion of the costs of the Project, including a full analysis of the discarded alternatives, prevents any meaningful understanding of the impact upon environmental justice communities.

The absence of any meaningful analysis in the DEIS of the proposed Project's impact on environmental justice issues along the pipeline route failed to take the requisite hard look at the proposed Project's environmental impact. A revised DEIS must be prepared for review and public comment to analyze the impact on environmental justice issues along the pipeline route. See Section 4.9.10.

CO14-57 See the responses to comments FA4-15, FA4-16, and LA9-16.

CO14 – Stop the Algonquin Pipeline Expansion (cont'd)

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CONCLUSION

CO14-58 For all of the reasons stated above, the DEIS is premature, incomplete, unsupported by evidence and fails to adequately consider the direct, indirect and cumulative impacts of the proposed Project. The proposed Project is unnecessary, improperly located in close proximity to a nuclear power facility, with significant environmental impacts that have not been fully addressed in the DEIS. The defects in the DEIS are fundamental and pervasive. We therefore request that the Commission: (1) take no further action with respect to permitting of the proposed Project on the basis of this profoundly flawed DEIS; and (2) prepare a revised DEIS with a new period for review and public comment to ensure that the FERC satisfies its obligations under NEPA.

Respectfully submitted,

Stop the Algonquin Pipeline Extension (SAPE)

Founding Members:

Susan Van Dolsen
Paula Clair
Suzannah Glidden
Susan McDonnell
Jerry Ravnitzky
Marian Rose
Ellen Weininger

CO14-58 See the responses to comments FA4-1, FA6-5, and SA1-12.

CO15 – Sierra Club Lower Hudson Group, William Meyer

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CO15-1 William Meyer, Armonk, NY.
Sierra Club Lower Hudson Group, as an intervenor, strongly urges FERC to withdraw its DEIS for this Project because it is incomplete. All required studies and filings by Algonquin and other entities should be completed, and the health and safety impact assessments requested by county legislatures and citizens along the route should be conducted, after which FERC should re-issue a supplemental EIS with a new 90 day comment period. Any other action by FERC removes the public's right to comment and provide meaningful input on this EIS.

The present DEIS is not complete:

CO15-2 1) Provides incomplete information: The DEIS speaks of studies such as Entergy's Hazards Analysis (p. 4-267) and Algonquin's final AC/DC Interference study (4-266) which are not included because they are not finished. In Section 5.2, FERC Staff recommend that Algonquin file a number of plans and details prior to the end of the DEIS comment period. In addition, the counties of Westchester, Rockland, and Putnam have passed resolutions asking that health and safety impact assessments be conducted before any permits are granted. The current DEIS should be withdrawn and re-issued as a supplemental EIS after all these studies are completed and the required information is provided, along with a new 90-day or longer comment period. Only then will the public have the ability to comment meaningfully on the EIS.

CO15-3 2) Inadequately addresses safety concerns: The DEIS does not consider important safety concerns such as the proximity of the pipeline to Indian Point and the CHPE and WPP electric transmission lines over two seismic faults. It mentions these as Other Known Projects, but too quickly dismisses any cumulative impacts from possible accidents. Regarding WPP, it merely mentions that the two companies have met and plan to share design drawings (p. 4-266). And while accidents may be uncommon, as Algonquin claims, the disastrous impact of even one accident near Indian Point or an elementary school within its potential blast impact radius must be strongly considered. These safety concerns must be more adequately addressed in an EIS.

CO15-4 3) Inadequately addresses climate change and pollution impacts: The DEIS refuses to consider the effect of Marcellus Shale development with the random conclusion that it would not be affected by the project because it is at least 10 miles away (p. 4-276). Sierra Club argues that this Project, by enabling vastly greater quantities of natural gas to be transported to New England and eventually for export, would greatly accelerate shale gas extraction in Pennsylvania. The DEIS therefore cannot ignore the environmental impacts of this process. Unburned methane, which leaks from all parts of the shale gas extraction and transmission process, is 86 times more potent a greenhouse gas than carbon dioxide over 20 years, 34 times more potent over 100 years. (http://www.climatechange2013.org/images/uploads/WGIAR5_WGI-12Doc2b_FinalDraft_Chapter08.pdf) And burning all the natural gas being carried by the Algonquin pipeline produces carbon dioxide, which is one of the leading causes of climate change. Additionally FERC is considering

CO15-1 See the responses to comments FA4-1, FA6-5, and SA1-12.

CO15-2 See the responses to comments FA4-1, FA4-25, FA6-5, and SA7-4.

CO15-3 See the responses to comments FA4-25, SA4-2, SA4-5, and SA7-4.

CO15-4 See the responses to comments FA4-24, CO7-3, and CO12-13. There are currently several proposals to export natural gas from the U.S. to neighboring or overseas countries. However, Algonquin is not constructing the AIM Project for the purpose of supporting the export of natural gas from the United States. As discussed in section 1.1 of the EIS, Algonquin is proposing to transport natural gas to meet the demand for natural gas based on commitments from the Project shippers, which include local distribution companies and two municipal utilities. These entities have statutory, regulatory, and/or contractual obligations to serve natural gas customers within their respective service areas in New England. Additionally, even if precedent agreements were not in place for the entire proposed capacity, to be exported, the natural gas would need to be transported by pipeline across the Canadian border or be liquefied for transportation in specialized container ships to overseas markets. Such a proposal would require the FERC's approval under section 3 of the NGA (as well as many other federal and state approvals) and would be subject to a full environmental review. The process of liquefying the gas involves specialized equipment at a specific export facility. Currently, no existing liquefied natural gas (LNG) export facilities or infrastructure exists on the east coast. In addition, the timing and need as expressed through the precedent agreements greatly proceeds the development of any potential nearby LNG export facility as the facilities take several years to develop, advance through the regulatory process, and be constructed.

**CO15 – Sierra Club Lower Hudson Group, William Meyer
(cont'd)**

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CO15-4 (cont'd) the impact of carbon dioxide for approval of the XL Pipeline and must apply this consideration uniformly in this case due to these vast new gas reserves being opened up and transported by this project. For these reasons and because of the pollution hydraulic fracturing causes to water, land, and air, Sierra Club opposes all new fossil fuel infrastructure proliferation.

CO15-5 See the response to comment FA3-5.

CO15-5 4) Inadequately addresses cumulative impacts: The DEIS dismisses the cumulative impacts of Algonquin's next natural gas pipeline expansion, Atlantic Bridge, saying that construction will occur after AIM is completed and details are not known (p. 4-272). This completely fails to consider the cumulative impacts of the operation of both projects, to which the public would be exposed. Even within this DEIS, the impacts of the compressor stations and pipelines are not considered together. These segmentation attempts by Algonquin are not acceptable.

CO15-6 See the response to comment CO7-5.

CO15-6 Sierra Club recommends that the supplemental DEIS include consideration of a peer-reviewed study by scientists and engineers which has shown that New York State can transition off fossil fuels 85% by 2030 and 100% by 2050 using currently available technology. (<http://web.stanford.edu/group/efmh/jacobson/Articles/I/NewYorkWWSERPolicy.pdf>) The study has since been expanded to include plans for all 50 states.

This study, called the Wind, Water and Sunlight plan, will save billions of dollars because people will no longer be getting sick or dying from fossil-fuel driven air pollution (the costs of illness and death due to such air pollution are also not considered in this DEIS). The plan will create about three times as many permanent jobs as would be added by the fossil-fuel industry and it will reduce the impact of energy generation on climate change. It will lead to greater energy security and more stable energy pricing in the future.

CO15-7 In conclusion, on behalf of our approximately 4,000 members in Westchester, Rockland and Putnam, the counties through which the AIM pipeline would run in New York State, the Sierra Club Lower Hudson Group asks FERC to more fully address the health and safety concerns related to its current DEIS. For a project so vulnerable to many risks, including terrorism, it would really be doing the public a disservice to rubber stamp Spectra's proposal without fully assessing its potential impacts.

CO15-7 An assessment of the health and safety concerns related to the Project is provided in sections 4.11 and 4.12 of the EIS. Section 4.12.4 of the EIS addresses terrorism.

Thank you.

Bill Meyer, Chair
Sierra Club, Lower Hudson Group

CO16 – Hands Across the Border, Suzannah Glidden

20140929-5086 FERC PDF (Unofficial) 9/29/2014 9:48:25 AM

Suzannah Glidden, Chair
Hands Across the Border
19 Sunset Place
North Salem, NY 10506

September 29, 2014

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

Dear Ms. Bose:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement (DEIS) for Spectra Energy's Algonquin Incremental Market (AIM) Project, FERC Docket #CP14-96-000.

CO16-1 **Withdrawal of incomplete, flawed DEIS**

We find the DEIS fatally flawed, incomplete and lacking in necessary data in support of FERC's conclusion that the AIM project will not create significant environmental impact. It fails to consider important health and safety concerns such as the proximity of the pipeline to Indian Point nuclear facility, two proposed electric transmission lines and in close proximity to two seismic faults or the impacts of emissions along the pipelines and especially from the compressor stations on the health of nearby residents. We request the current DEIS be withdrawn and a Supplemental DEIS released with at least an additional 90-day public comment period following.

CO16-2 **Mandatory inclusions in SDEIS**

An SDEIS must contain the unfinished reports and information referred to in DEIS Section 5.5. It must also contain the independent, transparent and comprehensive risk and health assessments plus baseline air testing funded by Spectra and all other measures called for in the Resolutions passed by Putnam, Westchester and Rockland Counties as well as Cortlandt, Peekskill, Yorktown, Somers and Philipstown. These were submitted to FERC and yet not included in the DEIS. They must be included in an SDEIS as also called for at the FERC September 15, 2014 public hearing by many elected officials and members of the public.

CO16-3 **Independent risk assessment**

Regarding the independent risk assessment of siting a 42" diameter, high pressure pipeline in close proximity to Indian Point nuclear power plant, intersecting nearby with two proposed megawatt electric lines, and within a seismic zone of the Ramapo and Peekskill/Stamford fault lines, it must also be factored into the risk analysis that the automatic closure valves were removed more than 30 years ago; how will shut off be conducted in case of emergency?

CO16-1 See the responses to comments FA4-1, FA6-5, FA4-25, SA1-12, SA4-2, and SA7-4.

CO16-2 See the responses to comments FA4-1, SA4-1, SA4-9, SA4-10 and FA4-25.

CO16-3 Algonquin has stated it would install remote control shut-off valves, which can be operated remotely by the gas control center in the event of an emergency. See also the responses to comments FA4-25, SA4-2, and SA7-4.

CO16 – Hands Across the Border, Suzannah Glidden (cont'd)

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CO16-4 **Public Convenience and Necessity**

Why does Public Convenience and Necessity only refer to increased New England consumer use rather than Spectra's intention to export? The public has the right to know in a public review document the full scope of intention and how that intention will affect prices for gas energy domestically. It has been announced that after expansions of Algonquin and Maritimes & Northeast pipelines, Spectra will export this expanded gas supply via Canaport LNG export terminal in Saint John, New Brunswick, and to-be-constructed Goldboro LNG export terminal in Nova Scotia, amongst possible others.

See http://www.northeastgas.org/about_lng.php
<http://www.cbc.ca/news/canada/new-brunswick/new-uses-sought-for-saint-john-s-canaport-lng-terminal-1.2538819>
<http://thechronicleherald.ca/business/1195030-nova-scotia-approves-goldboro-lng-project>
<https://sape2016.files.wordpress.com/2014/05/040214-movin-out-exporting-us-sourced-gas-from-the-maritimes.pdf>
<http://www.nrcan.gc.ca/energy/natural-gas/5683>

"...The natural gas supply feeding the project is to be delivered via the existing Maritimes & Northeast Pipeline, located directly adjacent to the project. The target markets for the LNG produced at the Goldboro LNG project are Europe, South America and Asia."
<http://goldborolng.com/>

In a study produced for the Department of Energy on this issue a couple of years ago, a chart showed that just about every sector of the economy—farmers, manufacturers, consumers, others—would be hurt by exports because it will lead to rising domestic gas prices, as much as two-three times as high as they are now over the next decade or so. I have heard that a study put together by a Congressional office has found that only 10 out of the U.S.'s 50 states will benefit. <http://grist.org/article/stop-fracked-gas-exports-now/>
 An SDEIS must include Spectra Energy's export intention.

CO16-5 **Contracts**

Also missing from assessment in this DEIS is the alternative of only writing "Firm Transportation" rather than "Interruptible" contracts. If only Firms were written between gas transmitters and consumers and generators, would supply then be sufficient in New England during winter cold snaps? Residents in Massachusetts and attorney Shanna Cleaveland of Conservation Law Foundation of Boston, MA claim that supply would then be sufficient and there would be no reason to increase supply with the AIM project.
<http://www.loe.org/shows/segments.html?programID=14-P13-00030&segmentID=4>
 A Supplemental DEIS must defend against this argument.

CO16-6 **Spectra Energy's second expansion Atlantic Bridge and third expansion Access of the same Algonquin pipeline and infrastructure components**

The second and third expansions, Atlantic Bridge and Access, of the Algonquin pipeline and infrastructure are being segmented from the AIM review rather than included. It is illegal to segment the cumulative impacts from these projects which will impact the same areas

CO16-4 See the response to comment CO15-4.

CO16-5 As discussed in section 1.1 of the EIS, the executed precedent agreements for the Project are for firm transportation service.

CO16-6 See the responses to comments FA3-5 and LA23-16.

CO16 – Hands Across the Border, Suzannah Glidden (cont'd)

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CO16-6
(cont'd) and extend the construction periods. All three and their cumulative impacts must be reviewed in a common SDEIS.

CO16-7 **Greenhouse Gas Emission**

The DEIS does not include the impact on climate change of natural gas. Raw methane vented at the wellhead and all parts of the transmission process is 86 times more potent a greenhouse gas than carbon dioxide over 20 years, and 34 times more potent over 100 years, according to the United Nations Intergovernmental Panel on Climate Change. <http://www.ipcc.ch/report/ar5/wg1>

The burning of the natural gas carried by the Algonquin pipeline produces carbon dioxide, a leading cause of climate change. It is critical to include in the SDEIS the total Greenhouse Gas emissions from not only the AIM project but also the Atlantic Bridge and Access projects and their cumulative impacts on climate change.

CO16-9 **Compressor station emissions exceeding threshold limits**

What regulation exists that allows pollutant emissions at the Stony Point and Southeast compressor stations to far exceed threshold limits? It is a crime against humanity to permit the industry to use air credits from their other infrastructure with emissions under thresholds and to deduct them from the over-threshold emissions to bring them into compliance while poisoning the citizenry with air unfit for human consumption. This practice should be outlawed. See attached Spectra chart.

Is mitigation of Stony Point and Southeast compressor stations possible to reduce threshold limit exceedances without the use of air credits? The air quality of Rockland, Westchester and Fairfield Counties is already ranked by US EPA as non-attainment. The American Lung Association gives us an F in ozone and particulate matter. How can the formation of ozone - caused by combustion emissions nitrogen oxides and VOCs with heat and sunlight - be mitigated to not form? How can particulate matter be mitigated to not be emitted?

CO16-10 Renewable energy does not poison the public resulting in heart, pulmonary and cancer conditions leading to death and should be chosen by FERC as the alternative to the AIM project which should be decided as No Build.

CO16-11 **Blowdowns, Notification**

The public is not given education on the dangers of compressor station emissions or the added dangers of extra venting during blowdowns, partial or full. Notification should be given all towns within a 10-mile radius of compressor stations before or immediately following an unplanned partial or full blowdown so the public can take emergency measures. Those particularly at risk are children, the elderly, those with cardiovascular or pulmonary disease or other health-compromised populations. A SDEIS should include that industry be required to give notification to towns and counties hosting or within 10 miles of M&R and compressor stations before blowdowns or immediately following partial or full blowdowns. Education should also be provided on the critical aspect of temperature

CO16-7 See the responses to comments CO7-3 and CO12-13.

CO16-8 See the responses to comments FA3-5 and LA23-16.

CO16-9 The emission thresholds identified in the EIS are not as limit as the commentor indicates, but are an evaluation criteria used to determine whether a specific type of permitting applies to a facility. Facilities may exceed the thresholds, which prompts further review, emission controls, and permitting requirements by the applicable air permitting authority. The Clean Air Act and air permitting program, allows facilities to use air emission offsets during permitting. In order to achieve improved air quality within a nonattainment area, reductions are required throughout the entire air quality control region. However, the only Project-related PSD or Nonattainment New Source Review (NNSR) permitting threshold exceeded was for the Stony Point Compressor Station and for GHGs only. The Project results in overall decreases in emissions of most pollutants at this compressor station. The Southeast Compressor Station did not exceed the PSD or NNSR permitting threshold for any pollutants and would result in an overall decrease in emissions of several pollutants. We are not aware of any offsets required under NNSR permitting or general conformity for any facilities associated with the Project.

CO16-10 Comment noted.

CO16-11 See response to SA4-3.

CO16 – Hands Across the Border, Suzannah Glidden (cont’d)

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CO16-11 | inversions which hold emissions close to the ground with limited dissipation and that
(confd) nearby residents to M&R and compressor stations should daily check on wind direction.

CO16-12 | **PIG launcher/receiver**
Lacking in the DEIS and needed in a SDEIS is full disclosure of the radioactive elements of radon's decay products, Lead 210 and Polonium 210 which are contained in the scaling inside of pipelines and released during the cleaning process of the Pipeline Inspection Gauges at PIG launchers and receivers. The public must know exactly the constituents and their potential harm if carried by air or rain in the soil. And they must know exactly where will the PIG launcher/receiver station will be located in Westchester. This information must be contained in a Supplemental DEIS.

CO16-13 | **Alternative choice**
Hydraulic fracturing of shale natural gas uses up and permanently poisons our fresh water supply, fragments forest, contaminates air and land. Fossil fuel production, including natural gas, exacerbates global warming and leads to our extinction. The alternative of energy efficiency, conservation and renewable energy must be included in a SDEIS and the consideration and ultimate choice of the No Build option. Using currently available technology, a peer-reviewed study by scientists and engineers has shown that New York State can transition off fossil fuels 85% by 2030 and 100% by 2050.
<http://web.stanford.edu/group/cfmh/jacobson/Articles/1/NewYorkWWSEnPolicy.pdf>

This Wind, Water and Sunlight plan will create three times as many permanent, sustainable jobs as would be added by the fossil-fuel industry and it reduces the impact of energy generation on climate change. It will also save billions of dollars in healthcare from Americans being made sick or dying from fossil-fuel driven air pollution. Renewable energy leads to much greater energy security and independence and more stable energy pricing in the future.

CO16-14 | FERC must more fully address health and safety concerns, include cumulative impacts of all three Spectra Energy projects on this Algonquin pipeline and infrastructure, and include a hard look at the alternative of renewable energy in a SDEIS. Our lives and future depend on it.

Thank you.

Suzannah Glidden, Chair
Hands Across the Border
914-485-1052

CO16-12 See the response to comment SA4-4.

CO16-13 See the response to comment CO7-5.

CO16-14 Comment noted.

CO16 – Hands Across the Border, Suzannah Glidden (cont'd)

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ALGONQUIN GAS TRANSMISSION, LLC
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Houston, TX 77056-5310
713.627.5400 main

Mailing Address:
P.O. Box 1642
Houston, TX 77251-1642

SpectraEnergy
Partners

June 20, 2014

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: *Algonquin Gas Transmission, LLC*, Docket No. CP14-96-000
Supplemental Information – Air Quality Information

Dear Ms. Bose:

On February 28, 2014, Algonquin Gas Transmission, LLC (“Algonquin”) filed its Abbreviated Application for a Certificate of Public Convenience and Necessity and for Related Authorizations (“Application”) with the Federal Energy Regulatory Commission (“Commission”) for its Algonquin Incremental Market Project. Per discussion with Commission staff on June 11, 2014, regarding the additional air quality information needed for the draft environmental impact statement, Algonquin is providing copies of the air quality tables in Attachment A as requested by the Commission. The information provided by Algonquin is denoted in red font.

If you have any questions regarding this filing, please contact me at (713) 627-4488 or Chris Harvey, Director, Rates and Certificates at (713) 627-5113.

Respectfully submitted,

/s/ Berk Donaldson
Berk Donaldson

Enclosure

cc: Maggie Suter (FERC)
FERC Service List

www.spectraenergypartners.com

CO16 – Hands Across the Border, Suzannah Glidden (cont'd)

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ATTACHMENT A

CO16 – Hands Across the Border, Suzannah Glidden (cont'd)

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Source	Potential Operational Emissions for the Sturgis Point Compressor Station Modifications (tons per year) for the AIM Project									
	Potential Emissions									
	NO _x	CO	VOC	SO ₂	PM ₁₀ /PM _{2.5}	Formaldehyde	Total HAPs	CO ₂		
	tpy	tpy	tpy	tpy	tpy	tpy	tpy	tpy	tpy	tpy
Existing Station PTE	189	381	203	3.78	1.7	16	89	240,796		
Two New Compressor Units	38	50	5	4	8	0.3	1	135,994		
New Emergency Generator	1.0	1.9	0.9	0.001	0.02	0.4	0.5	433		
Three New Gas Heaters	1.5	2.2	0.5	0.01	0.1	0.005	0.1	1,791		
Proposed Puts Washer			0.4							
New Fugitive Releases (Piping, Gas Refuses, Tanks, Truck, Loading)			-16				-1	-11,556		
Changes for Modified										
Removal from 4 Units to be	-53	-76	-1	0.3	1	-1	-1	11,764		
Removed	-82	-249	-118	-0.1	-10	-55	-79	-60,487		
Changes from other Facility										
Modifications										
Proposed Modified Station PTE	94	110	74	8	16	1	9	318,735		
NESHAP PSD	25	100	25	40	15 (PM ₁₀) 10 (PM _{2.5})	10	25	44,000		
Applicability threshold								75,000		

Note: PTE = potential to emit; NESHAP = National Emission Standards for Hazardous Air Pollutants; PSD = Prevention of Significant Deterioration.

CO16 – Hands Across the Border, Suzannah Glidden (cont'd)

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Potential Operational Emissions for the Southeast Compressor Station Modification (tons per year) for the AUM Project										
Source	Potential Emissions						Total HAP's		CO ₂ e	
	NO _x	CO	VOC	SO ₂	PM ₁₀ /PM _{2.5}	Formaldehyde	tpy			
Existing Station PTE:	172	266	66	5	10	4	11	221,231		
One New Compressor Unit	12	21	2	1	2	0.1	0.4	44,511		
Proposed Emergency Generator	1	1	1	0.001	0.01	0.3	0.3	288		
Two Proposed Gas Heaters	1	1	0.4	0.01	0.1	0.003	0.1	1,190		
Proposed Parts Washer			0.4							
New Fugitive Releases (Piping, Gas Releases, Tanks, Truck, Loading)			8				1	4,745		
Changes for Modified Compressor	-53	-70	-1	0.3	1	-1	-1	11,634		
Changes from other Facility Modifications										
Total of Proposed Modifications	-40	-47	10	2	3	-1	0.3	63,267		
Proposed Modified Station PTE	133	219	75	7	14	4	12	283,598		
NESHAP/PSD Applicability Threshold	40	100	40	40	15 (PM ₁₀) 10 (PM _{2.5})	10	25	444,444 75,000		

Notes: PTE = potential to emit; NESHAP = National Emission Standards for Hazardous Air Pollutants; PSD = Prevention of Significant Deterioration

Notes: PTE = potential to emit; NESHAP = National Emission Standards for Hazardous Air Pollutants; PSD = Prevention of Significant Deterioration.

CO16 – Hands Across the Border, Suzannah Glidden (cont'd)

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Potential Operational Emissions for the Burr/Belle Compressor Station Modifications (tons per year) for the AAM Project		
Source	Potential Emissions	
	VOC	TPY
Existing Station PTE		135
New Compressor Unit		2.5
New Emergency Generator		0.4
New Gas Heater		0.2
Proposed Parts Washer		0.4
New Routine Releases (Piping, Gas Releases)		8
Total of Proposed Modifications		12
Proposed Modified Station PTE		147
NNSR/NESHAP PSD Applicability Threshold		25 tpy

Notes: PTE – potential to emit; NNSR – Nonattainment
New Source Review; PSD – Prevention of Significant
Deterioration; AP – National Ambient Air Quality
Standards for Hazardous Air Pollutants; PSD – Prevention
of Significant Deterioration.

CO17 – Hudson River Sloop Clearwater, Inc.



Hudson River Sloop Clearwater, Inc. Comments on Algonquin Incremental Market ("AIM") Project:

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I am writing on behalf of Hudson River Sloop Clearwater, Inc., a non-profit that works to protect the ecology of the Hudson River and the well-being of all of the people living in its watershed.

CO17-1 We have reviewed the Draft Environmental Impact Statement for the proposed Algonquin pipeline expansion and find the DEIS to be insufficient in many areas. Specifically, we are concerned about impacts to wetlands and other
CO17-2 sensitive habitats, the pipeline expansion's potential impacts on threatened and endangered species and the lack of
CO17-3 attention given to risks of seismic activity in the area. Moreover, comprehensive studies must be completed, especially as they relate to multiple issues of Environmental Justice in the City of Peckskill. Finally, there is the larger question
CO17-4 of whether additional investment should go into expanding gas infrastructure when we urgently need to transition to an economy based on renewable energy.

Note: This Project Concerns the Common Adirondack Fish and Wildlife Project. Clearwater is a voice of and for the Hudson River, and we are particularly disturbed at the lack of analysis of the effects the AIM Project will have on the sensitive habitat of the Hudson and its watershed. The proposed Algonquin pipeline expansion would cross the Hudson River in an area designated as Significant Fish and Wildlife Habitat by the New York State Department of Environmental Conservation' and traverses areas designated as crucial by the Croton-to-Highlands Biodiversity Plan.² Of special concern are wetlands like the Dickey Brooke, which exist entirely within the path of the proposed pipeline. Among other essential biological functions, wetlands like the Dickey Brook "regulate water flow, protect lake and river shore areas from erosion, and improve water quality."³ While many freshwater wetlands over 12.5 acres in are protected by the NYS Department of Environmental Conservation, under the Freshwater Wetlands Act, Article 24, the Dickey Brook, as a smaller wetland, is not. Nearly 31 aggregated acres of wetlands in NY will be disturbed as part of the pipeline expansion; these wetlands should be looked at as a whole and Spectra/Algonquin obligated to apply for permits through the NYS Department of Environmental Conservation before any construction takes place.

The DEIS indicates that there will likely be secondary or indirect impacts on habitats adjacent to some wetlands. Likely impacts include an increase in erosion, and disturbances of chemical makeup in soil and runoff-decreases in water quality. This is especially troublesome since many wetlands which will be disturbed are within the Hudson River watershed, and near sections designated as Significant Fish and Wildlife Habitat.⁴ Further the NYS Department of State has designated the Haverstraw Bay as a Significant Coastal Fish and Wildlife Habitat area that extends approximately six miles on the Hudson River, from Stony Point to Croton Point, in the Towns of Stony Point, Haverstraw, and Clarkstown, in Rockland County, and the Town of Cortlandt, in Westchester County.⁵

The fish and wildlife habitat, approximately 8,700 acres, encompasses the entire river over this approximate six-mile reach, which is the widest section of the Hudson River estuary. Haverstraw Bay has extensive shallow areas (less than 15 feet deep at mean low water) that deepen to a navigation channel (which is dredged to maintain a depth of about 35 feet) in the western half of the area. During much of the year, this

¹ United States Fish and Wildlife Service, (n.d.). Significant habitats and habitat complexes of the new york bight watershed lower hudson river estuary complex

² Miller, N., & Klemens, M. (2004). Croton-to-Highlands biodiversity plan: Balancing development and the environment in the Hudson River Estuary Catchment. Rye, N.Y.: Metropolitan Conservation Alliance, Wildlife Conservation Society.

³ Freshwater Wetlands Permit Program: Do I Need A Permit? (n.d.). Retrieved September 20, 2014

* United States Fish and Wildlife Service, (n.d.). Significant habitats and habitat complexes of the new york bight watershed lower hudson river estuary complex

⁵ NYS Dept. of State, Coastal Fish and Wildlife Habitat Rating Form

www.dos.ny.gov/opd/programs/consistency/Habitats/HudsonRiver/Haverstraw_Bay_FINAL.pdf

CO17-1 See the response to comment FA4-1.

CO17-2 Comment noted. General impacts and mitigation measures for protecting wetlands are described in section 4.4.3 of the EIS. As noted in section 4.1.5.1 of the EIS, specific site conditions, including earthquakes, are considered in the design of the pipeline. The recorded magnitude of earthquakes in the Project area is relatively low and the ground vibration would not pose a problem for a modern welded-steel pipeline. As such, the Project is not anticipated to have an impact on federally listed species, wildlife, or sensitive resources as a result of seismic activity.

CO17-3 See the responses to comments FA4-15, FA4-16, and LA9-16.

CO17-4 Comment noted. An evaluation of renewable energy alternatives to the proposed Project is provided in section 3.2.2 of the EIS.

CO17-5 The Hudson River would be crossed using the HDD crossing method, which minimizes impacts on fish and wildlife habitat as no in-water would be conducted. All wetlands, even those not subject to regulation by other agencies, are regulated by FERC. Algonquin and FERC consulted with National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries) regarding Essential Fish Habitat, Essential Fish Habitat Species, anadromous fish, marine mammals, and both the shortnose and Atlantic sturgeon. The outcome of these consultations is accurately described in sections 4.7.1 and 4.7.2 of the EIS. See also the responses to comments CO13-1 and CO13-8.

CO17 – Hudson River Sloop Clearwater, Inc. (cont'd)

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CO17-5 (cont'd)	<p>area is the place where freshwater from the upper river mixes with salt water from the Atlantic Ocean to produce a predominantly brackish water habitat with salinities varying from 0-10 ppt. Several submerged aquatic vegetation beds, dominated by water celery (<i>Vallisneria spiralis</i>), are found here. Habitat disturbances, such as dredging, shoreline filling and bulkheading, waste disposal, and pollution from upland and in-river sources, have all been significant at some time during the recent history of this area.”⁶</p> <p>To date, there are no studies into how the temporary disturbances of these watersheds will affect the threatened and endangered Atlantic and Shortnose Sturgeon, or the American Eel populations within the Hudson River. The only mention of the sturgeon populations is in regard to the Horizontal Directional Drilling (HDD) proposed below the Hudson River. Left in question are the effects of the “unnatural erosion” caused by construction sites adjacent to the Hudson River, or other disturbances to the watersheds. The American Eel is never mentioned, though the NY Fish and Wildlife Service has named it a “priority representative” species.⁷ The American and Shortnose Sturgeons, and the American Eel are each negatively affected by increased turbidity and poor water quality. The current DEIS should include more thorough studies detailing how the effects of disturbances to nearby wetlands and erosion from construction sites will impact the Significant Fish and Wildlife Habitat within the Hudson River.⁸</p>
CO17-9	<p>Clearwater is concerned that the current DEIS severely underestimates the seismic threats to the proposed pipeline within the Ramapo Seismic Zone, on the Stamford-Peekskill fault line. Whereas the DEIS repeatedly states that there is low risk to the project sites based on seismic activity, another study from leading seismologists at Columbia University Lamont-Doherty Earth Institute describes the area as, “situated at the intersection of the two most striking linear features marking the seismicity and also in the midst of a large population that is at risk in case of an accident.”⁹ The report goes on to summarize that, “This is clearly one of the least favorable sites in our study area from an earthquake hazard and risk perspective.”¹⁰ The DEIS acknowledges that the presence of conditions necessary for liquefaction—the most dangerous secondary seismic effect—are likely present in the project area, but denies the high potential for prolonged ground shaking due to a seismic event. Researchers, however, have pointed out that, “magnitude 6 quakes, or even 7—respectively 10 and 100 times bigger than magnitude 5—are quite possible on the active faults,”¹¹ along the proposed HDD Hudson crossing.</p>
CO17-7	<p>The high risk for damage to the proposed pipeline expansion, in an area of sensitive habitat and close proximity to major metropolitan areas, is made all the more egregious by its close proximity to the Indian Point nuclear power. In 2008, the Attorney General of New York filed comments with the Nuclear Regulatory Commission stating, “New data developed in the last 20 years disclose a substantially higher likelihood of significant earthquake activity in the vicinity of [Indian Point] that could exceed the earthquake design for the facility.”¹² The Indian Point Nuclear Facility is burdened with severely overcrowded fuel pools, which could reach criticality spontaneously. A recent ruling by the Nuclear Regulatory Commission will allow indefinite on site storage, with no requirement to relieve the overcrowding. A meltdown or nuclear release at Indian Point would have catastrophic effects on the region. Doubling the amount of energy and fuel to pass through nearby pipelines could increase the magnitude of any potential disasters. This is an unacceptable risk, especially since Algonquin has acknowledged that it would pay taxes, but may not fund any clean ups in case of pipeline rupturing or explosion. Any construction project or expanded infrastructure must consider this and related potential dangers at Indian Point, and Entergy should be required to move older fuel rods out of the fuel pools into hardened dry cask storage before this expansion is even considered. An independent risk analysis must take place so the public is provided with information on the likelihood of catastrophic events due to a high pressure pipeline near Indian Point and a significant seismic zone. Additionally, Spectra/Algonquin should fund an independent cost analysis and bear all costs involved in emergency response training, and equipment and supplies needed should a catastrophe occur.</p>
CO17-8	
CO17-9	<p>Clearwater is also greatly concerned about the larger question of whether this investment in expanded gas infrastructure is appropriate at a time when transitioning to a Green Energy Economy based on</p>
<p>⁶ Ibid.</p> <p>⁷ New York and Long Island Field Offices Strategic Plan FY 2012. (2012). NY Fish and Wildlife Service.</p> <p>⁸ http://www.dos.ny.gov/opd/programs/consistency/Habitats/HudsonRiver/Havenstraw_Bay_FINAL.pdf</p> <p>⁹ Sykes, L. (2008, August 25). Earthquakes may endanger new york more than thought, says study. Retrieved from http://www.ldeo.columbia.edu/news-events/earthquakes-may-endanger-new-york-more-than-thought-says-study</p> <p>¹⁰ Ibid.</p> <p>¹¹ Ibid.</p> <p>¹² Ibid.</p>	

CO17-6 The U.S. Geological Survey (USGS) has extensively studied the Ramapo Fault system and the level of seismicity in the region. The USGS's review of data for evidence of Quaternary fault activity (i.e., within the last 1.6 million years) encompassing the Eastern U.S. indicates that there is no clear association between the fault and small earthquakes that do occur in the region. Wheeler RL. 2006. “Quaternary tectonic faulting in the Eastern United States.” Engineering Geology 82:165-186. Crone AJ, Wheeler R. (L. 2000. Data for Quaternary Faults, Liquefaction Features, and Possible Tectonic Features in the Central and Eastern United States, East of the Rocky Mountain Front. Reston, VA: USGS. Open file Report 00-260. 2000. 332 p.

CO17-7 See the responses to comments FA4-25 and SA4-2.

CO17-8 See the responses to comments LA1-4 and LA1-9.

CO17-9 An evaluation of renewable energy alternatives to the proposed Project is provided in section 3.2.2 of the EIS. The growth-inducing effects of the Project are discussed in section 4.13 of the EIS. See also the response to comment CO7-5.

CO17 – Hudson River Sloop Clearwater, Inc. (cont'd)

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CO17-9
(cont'd) renewable energy and energy efficiency is so urgently needed. We are disheartened as we watch applications mount for gas and oil pipelines and related infrastructure across NY State. Fossil fuel and nuclear power still dominate the marketplace and utilities and others still heavily invest in this status quo. Expanding so-called "natural" gas infrastructure is irreconcilable with the aggressive transition away from fossil fuels that is so urgently needed in order to reduce our effects on climate change. New York doesn't have the luxury of utilizing hydrofracked gas and oil as an interim step. Whether the gas transported by this expanded pipeline is burned here or abroad, this will result in an increased carbon footprint, putting our environment at increasing risk, while delaying the steps that need to be taken – and are being taken elsewhere, by courageous leadership in Germany and others. For example, Germany's Renewable Energy Act, originally introduced in 2000, has managed to increase renewables in the country's electricity portfolio from below 7% in 1990 to over 25% in 2014.¹³

New York State has seen at other times in its history the devastating economic effects of building infrastructure (including work forces) around technologies and commercial activities that become unsustainable as the result of technological advances and social changes. Building more infrastructure and attempting to create employment based on fossil-fuel extraction and delivery seems economically irresponsible. This may be especially true of the lure of supposed new employment opportunities in ADM construction, which are by definition short-term.

CO17-10 ~~See the response to comment LA9-16.~~ Communities of color and low income have historically been overburdened with health impacts from air and water pollution related to the siting of locally undesirable land use practices¹⁴ in their neighborhoods compared with their more affluent neighbors. In 2010-11 Clearwater received and EPA grant to undertake a Community-Based Environmental Justice Inventory (CBEJI) of Peekskill, with municipal officials and community trust leaders and others interested in exploring this issue. Data was gathered from EPA, Westchester County Department of Health, NY State DEC Office of Environmental Justice and other reliable sources. The report, available on our website, showed that Peekskill, which has been designated a Potential Environmental Justice Area (PEJA), is a low-income and high minority community suffering from higher rates of many diseases and with more than its fair share of toxic release sites, hazardous and solid waste facilities.¹⁵ We believe that it is FERC's responsibility to ensure that racial, economic, and environmental disparities are considered before any permits are issued for the ADM pipeline expansion. According to the EPA, Peekskill — as part of Westchester County — is already a non-attainment area and does not meet federal standards for air quality. Although the system may allow Spectra Energy to bypass the EPA thresholds of many toxic emissions by buying credits in other areas, where emissions are under the threshold, that is no comfort to the citizens of Peekskill, who will be further burdened with some of the following toxins emitted by nearby compressor stations: volatile organic compounds (VOCs) such as benzene (a known carcinogen), nitrogen oxide, carbon dioxide, carbon monoxide, and methane – a very potent greenhouse gas – among others.

Peer-reviewed studies indicate that emissions from pipeline leaks, compressor stations, and shale gas infrastructures are associated with negative health impacts. There have been no comprehensive studies on baseline air quality in the area or how emissions from the pipeline expansion would specifically affect the already compromised EJ community members in Peekskill, which already have unusually high rates of:

- asthma,
- respiratory cancers,
- death due to cardiovascular disease,
- high incidents of low birth rate and prematurity (especially in African-American babies), and
- infant death rate (which is already the highest in the county).

CO17-12 EPA's principles of environmental justice dictate that all people (regardless of race, color, national origin, or income) should have the opportunity to make decisions about activities that may affect their environment and/or health. Yet, even on the most practical and basic level of being able to respond to dangerous conditions, the people most in danger are not protected: there is no systemic method for informing the public when there are emissions vented from the

¹³ Maatsch, H. (n.d.). *Hudson River Sloop Clearwater, Inc. Comments on Algonquin Incremental Market (ADM) Project*. Retrieved from http://www.theguardian.com/global-development-professionals-network/wwf-partner-zone/2014/aug/21/energiewende-energy-transition-in-germany?utm_medium=email&utm_source=nefoundation&utm_content=7 - Energiewende energy transition in Germany&utm_campaign=Energy+Crunch+-+5+September&source=Energy+Crunch+-+5+September

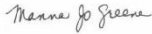
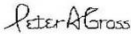
¹⁴ Environmental Justice Issue Brief 09 (p. 1). (2009). New York State
¹⁵ (2010). *Algonquin Incremental Market (ADM) Project*. Retrieved from website:
<http://www.clearwater.org/ea/environmental-justice/>

CO17-10 See the response to comment LA9-16.

CO17-11 See the responses to comments SA4-1 and SA4-9.

CO17-12 See the response to comment LA9-16. Regarding blowdown emissions, an estimate of pipeline, compressor station, and M&R station blowdown emissions are presented in section 4.11.1.3 of the EIS.

CO17 – Hudson River Sloop Clearwater, Inc. (cont'd)

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CO17-12 (cont'd)	pipeline, compressor stations and metering stations, which is antithetical to the very premise of environmental justice. These "blowdowns" occur both by design and accidentally, and release levels of toxins into the air that are dangerous to breathe, especially for children, the elderly and immune-compromised people. This is unacceptable and poses a great public health risk, especially for a community like Peekskill whose high rates of certain diseases may make them more vulnerable to the cumulative impacts of additional pollutants in the environment. ¹⁶
CO17-13	<ul style="list-style-type: none"> Within a 12.5 mile radius of downtown Peekskill there are already 23 toxic release sites, 27 major and minor air polluters, 19 solid waste facilities, and 47 hazardous waste facilities.¹⁷ The majority of toxic release sites, hazardous waste, solid waste facilities and wastewater facilities are located in predominantly African-American communities.¹⁸ The pipeline expansion will add to the already existing risks, making Peekskill – and the rest of the area – less and less healthful places to live and work. It must be considered as a significant incremental danger in the cumulative context of already existing problems. Clearwater's views on this are based on existing information, but we would agree that further assessment is needed to determine and quantify whether there are disproportionate health risks and environmental impacts. We submit that a comprehensive cumulative impact review should be performed before any permits are granted for the AIM pipeline expansion. Specifically: An independent entity acceptable to industry, local government, and the public must conduct a comprehensive, transparent, and cumulative Health Impact Assessment, and cumulative air emission baseline assessments. These assessments should be funded by Spectra for the Algonquin Pipeline Expansion;
CO17-14	<ul style="list-style-type: none"> Erosion studies should be completed regarding how the effects of disturbances to nearby wetlands and erosion from construction sites will impact the Significant Fish and Wildlife Habitat within the Hudson River;
CO17-15	<ul style="list-style-type: none"> Public hearings must occur regarding the health effects of metering and venting stations;
CO17-16	<ul style="list-style-type: none"> An independent risk analysis must take place so the public is provided with information on the likelihood of catastrophic events due to a high pressure pipeline near Indian Point and a significant seismic zone;
CO17-17	<ul style="list-style-type: none"> Algonquin should fund an independent cost analysis and the bare all costs involved in emergency response training, and equipment and supplies needed should a catastrophe occur;
CO17-18	<ul style="list-style-type: none"> A system must be put in place to give advanced notification of all planned blowdowns, and to give notification within 30 minutes following any unplanned release of gas in order to alert residents, police, fire departments and municipal officials; and
CO17-19	<ul style="list-style-type: none"> Spectra must establish that the proposed route for the Algonquin Pipeline Expansion complies with the recommendations of the Peekskill Community-Based Environmental Justice Inventory.
CO17-20	As Lisa Jackson, former Director of the U.S. EPA, said, "Environmental justice is not an issue we can afford to relegate to the margins. It has to be part of our thinking in every decision we make." ¹⁹ Clearwater is currently in litigation regarding environmental justice impacts of the relicensing of Indian Point. The Atomic Safety Licensing Board has acknowledged the merits of our contention. We hope that you will consider our concerns and the need for Federal Energy Regulatory Committee (FERC) to comply with the principles and the law with regard to issues of environmental justice and equity.
CO17-21	For all of the reasons set forth above, Clearwater strongly opposes the proposed Algonquin pipeline expansion, finds the DEIS entirely insufficient, and urges FERC to deny this permit application
Thank you for considering these comments and acting upon them. For further information, please contact:	
<div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">  <p>Manna Jo Greene, Environmental Director Hudson River Sloop Clearwater, Inc. 845-265-8080 x 7113 845-807-1270 (cell) mannajo@clearwater.org www.clearwater.org</p> </div> <div style="text-align: center;">  <p>Peter Gross, Executive Director Hudson River Sloop Clearwater, Inc. 845-265-8080 x 7121 peter@clearwater.org</p> </div> </div>	
<div style="display: flex; justify-content: space-between;"> <div> <p>¹⁶ Ibid.</p> <p>¹⁷ Ibid.</p> <p>¹⁸ Ibid.</p> </div> <div></div> </div>	

CO17-13	See the response to comment LA9-16. Section 4.13.9 of the EIS includes an updated discussion of potential cumulative safety issues in the Peekskill area.
CO17-14	See the responses to comments SA4-1, SA4-9, and SA4-10.
CO17-15	Comment noted.
CO17-16	See the responses to comments FA6-5 and SA4-10.
CO17-17	See the responses to comments FA4-25 and SA4-2.
CO17-18	See the responses to comments LA1-4 and LA1-9.
CO17-19	See the response to comment SA4-3.
CO17-20	See the response to comment LA9-16.
CO17-21	As shown in comment FA4-15, the EPA agrees with the conclusion in the EIS that the Project would not result in a disproportionate impact on environmental justice communities.
CO17-22	Commented noted.

CO18 – Entergy

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Algonquin Gas Transmission, LLC)
)
) Docket No. CP14-96-000

COMMENTS OF ENTERGY NUCLEAR INDIAN POINT 2, LLC, ENTERGY
NUCLEAR INDIAN POINT 3, LLC AND ENTERGY NUCLEAR OPERATIONS, INC.
ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR ALGONQUIN
INCREMENTAL MARKET PROJECT

Pursuant to the Federal Energy Regulatory Commission's ("FERC" or "Commission")
Notice of Availability of the Draft Environmental Impact Statement for the Proposed Algonquin
Incremental Market Project, issued on August 6, 2014 in the above-captioned docket, Entergy
Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC and Entergy Nuclear
Operations, Inc.¹ (collectively, "Entergy") hereby submit these comments concerning the draft
environmental impact statement ("Draft EIS") for the Algonquin Incremental Market Project
("AIM Project").

I. BACKGROUND

On June 18, 2013, Algonquin Gas Transmission, LLC ("Algonquin") submitted a request
to FERC to use the Pre-Filing review process for the AIM Project. The Commission granted
Algonquin's request and subsequently issued a Request for Comments on Environmental Issues.

Entergy owns and operates the Indian Point Energy Center ("IPEC"), a nuclear-powered
generating facility located at Buchanan, New York.² Algonquin's existing pipeline system uses

¹ Entergy Nuclear Operations is a service company that represents certain of its affiliates in operational and
regulatory matters, including representing them in Commission proceedings.

² IPEC has three nuclear units. IPEC Units 2 and 3 ("IP2" and "IP3") are operating nuclear power plants;
IPEC Unit 1 ("IP1") is permanently shut down but certain IP1 systems and components interface with and in some
cases support the operation of IP2 and IP3. Entergy Nuclear Operations, Inc. operates IP2 and IP3 as agent for
Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Indian Point 3, LLC, the owners of IP2 and IP3.

CO18 – Entergy (cont'd)

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an easement for three pipelines that cross the Hudson River at the IPEC property site. One of the AIM Project's original proposed routes (referred to as the "Northern Route") would continue to rely on this easement to cross IPEC's property. Accordingly, Entergy submitted National Environmental Policy Act ("NEPA") scoping comments to help FERC understand the safety, environmental, and nuclear regulatory considerations involved in the AIM Project as they may impact IPEC. Entergy wrote that it was necessary to determine, before FERC approval of the AIM Project, that expanding from a 26-inch diameter pipeline to a 42-inch diameter pipeline operating at higher capacities and pressure would not pose an increased nuclear safety risk in case of a postulated malfunction or failure of the expanded natural gas pipeline located near IPEC.³ Specifically, Entergy's comments explained that "NRC regulations require that nuclear power plant structures, systems and components important to safety be appropriately protected against dynamic effects resulting from equipment failures and other events and conditions that may occur outside a nuclear power plant, including the effects of explosions of materials that may be carried near the nuclear facility such as natural gas."⁴

On February 28, 2014, Algonquin submitted an application for a certificate of public convenience and necessity, pursuant to section 7(b) and 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations for the AIM Project.⁵ On April 8, 2014, Entergy submitted a motion to intervene with comments in this docket. Entergy explained that due to the proximity

respectively, pursuant to an Operating Agreement. Entergy Nuclear Operations, Inc. and Entergy Nuclear Indian Point 2, LLC hold the operating and owner's licenses, respectively, issued by the Nuclear Regulatory Commission ("NRC") for IP2. Entergy Nuclear Operations, Inc. and Entergy Nuclear Indian Point 3, LLC hold the operating and owner's licenses, respectively, issued by the NRC for IP3.

³ *Algonquin Gas Transmission, LLC*, NEPA Scoping Comments of Entergy Nuclear Operations, Inc. at 4, Docket No. PF13-16-000 (Oct. 14, 2013) (citing U.S. Nuclear Regulatory Commission Regulatory Guide 1.91, Rev. 2, Evaluations of Explosions Postulated to Occur at Nearby Facilities and on Transportation Routes Near Nuclear Power Plants (Apr. 2013)).

⁴ *Id.*

⁵ *Algonquin Gas Transmission, LLC*, Abbreviated Application of Algonquin Gas Transmission, LLC for a Certificate of Public Convenience and Necessity and For Related Authorizations, Docket No. CP14-96-000 (Feb. 28, 2014) ("Certificate Application").

CO18 – Entergy (cont'd)

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of the AIM Project to IPEC, Entergy—as the owner and NRC-licensed operator of IPEC—has a demonstrated interest in the AIM Project, and no other party can adequately represent Entergy's interests.⁶

Entergy noted in its NEPA scoping comments that the existing Algonquin pipeline system has been operating safely next to IPEC for several decades, and several evaluations of the potential hazards posed by the existing pipelines, conducted pursuant to NRC regulations and guidance, establish that the existing pipelines do not impair the safe operation of IPEC.⁷ These

CO18-1 analyses are part of the NRC design and licensing basis for both IP2 and IP3.⁸ The proposed AIM Project, however, significantly expands the existing Algonquin system, including pipeline capacity and pressure. Thus, the potential for increased nuclear safety risks, including in terms of the probability and consequences of a potential malfunction or failure of the expanded natural gas pipeline near IPEC, must be evaluated in advance and found to be acceptable in accordance with applicable NRC regulations before implementing the proposed change. While such occurrences are unlikely, Entergy must analyze any increased risk and consequences of such events prior to FERC's approval of the project. Depending on the results of the analysis, prior NRC review and approval of the new hazards analysis could be required before the project can be approved by FERC. As part of its review, NRC could request further information on the project or require additional measures to mitigate any potential hazards to IPEC. Such issues would have to be addressed before NRC could complete its review.

⁶ *Algonquin Gas Transmission, LLC*, Motion to Intervene and Comments of Entergy Nuclear Indian Point 1, LLC, *et al.* at 4, Docket No. CP14-96-000 (April 8, 2014).

⁷ The NRC has independently evaluated the external hazards posed by these pipelines several times, including pre-licensing in 1973 and more recently in 2003 and 2008. Those evaluations considered the design and construction of the gas lines, operations and maintenance practices, postulated failure modes, and standoff distances to safety-related structures. NRC's reviews have concluded that the existing pipelines do not adversely affect the safety and security of the plant. See Letter from NRC to the Honorable Sandra R. Galef, New York State Assembly, dated March 20, 2014 (ADAMS Accession No. ML14069A370).

⁸ See IP3 Updated Final Safety Analysis Report ("UFSAR"), Rev. 3, Section 2.2.2, describing the existing pipelines and referencing a 2008 evaluation of potential hazards posed by the pipelines.

CO18-1 Comment noted. See the response to comment FA4-25.

CO18 – Entergy (cont'd)

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CO18-1
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Entergy noted in its motion to intervene and comments that it had conducted a preliminary analysis of the alternatives described in Algonquin's Resource Report No. 10 and concluded that an expanded pipeline along the alternative Northern Route crossing of the Hudson River, in the existing easement, could introduce increased hazards to certain safety-related structures near or on the IPEC site. Accordingly, advance NRC review for the Northern Route crossing alternative would likely be required.⁹ Algonquin's preferred Southern Route crossing, with its greater distance from IPEC safety-related structures (approximately .5 miles south of the existing crossing), did not appear to raise the same safety-related concerns, but advance NRC review and approval may also be necessary based on the Southern Route's proximity to other IPEC systems, structures, and components that, while located outside of the main plant area, are important to safety. Entergy noted that it was continuing its review of the AIM Project and alternatives and would provide further comments to FERC in accordance with the environmental review schedule.

II. COMMENTS ON DRAFT EIS FOR AIM PROJECT

On August 6, 2014, FERC issued the Draft EIS for the AIM Project.¹⁰ As it relates to IPEC, the Draft EIS states as follows:

Based on our consultation with NRC, Entergy is required to assess any new safety impacts on its IPEC facility and provide that analysis to the NRC. Algonquin has coordinated with Entergy to provide information about its proposed pipeline, and Entergy is currently performing a Hazards Analysis. To ensure that no new safety hazards would result from the AIM Project, we are recommending that Algonquin file the final conclusions regarding any potential safety-related conflicts with the IPEC based on the Hazards Analysis performed by Entergy.¹¹

⁹ Whether NRC would approve the proposed change would depend on the results of the Safety Evaluation and Hazards Analyses.

¹⁰ *Algonquin Incremental Market Project, Draft Environmental Impact Statement*, Docket No. CP14-96-000 (August 6, 2014).

¹¹ Draft EIS at 5-15. The Draft EIS contains environmental hazard mitigation recommendations by FERC Staff, including the recommendation that Algonquin be required to file with FERC any potential safety-related conflicts with IPEC based on Entergy's Hazards Analysis and the recommendation that "[i]f, upon completion of the Hazards Analysis, additional mitigation measures are required to address safety-related issues or conflicts, prior to

CO18 – Entergy (cont'd)

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FERC's conclusions in the Draft EIS were also based, in part, on the comments Entergy submitted to FERC to assist the Commission in identifying issues for evaluation in the EIS, referenced above.

As noted in Section I above, the 2008 evaluation of potential impacts posed by the existing natural gas pipelines on IPEC is referenced in the IP3 UFSAR and is part of the formal NRC design and licensing basis for IP2 and IP3. NRC's regulations in 10 C.F.R. § 50.59 require that proposed changes to (or potentially affecting) the nuclear plant be reviewed in advance for potential impacts on the plant's licensing basis. Such review is often undertaken in the form of a written Safety Evaluation. If the proposed change as considered in the Safety Evaluation satisfies one or more of the criteria in 10 C.F.R. § 50.59, prior NRC review and approval—in the form of a license amendment—is required.¹² If not, the licensee is allowed to make the change without prior NRC approval. Nevertheless, such changes are still subject to regulation and oversight by the NRC. For example, 10 C.F.R. § 50.59 Safety Evaluations are subject to inspection, examination and potential enforcement action by NRC. Further, a licensee must periodically submit a summary of the Safety Evaluations to the NRC for review. Thus, the NRC monitors changes to a plant (or its environs, as in this case) and may take or require remedial action including mandating changes to or disapproval of the proposed action.

As noted in the EIS, Entergy has worked closely with Algonquin over the past year to better understand the scope of the project, including proposed alternate routes, and to confer regarding means to avoid any potential adverse impacts to IPEC. These discussions have

CO18-2 | primarily focused on the final selected pipeline routing – the Southern Route. As discussed

construction in the vicinity of the IPEC facility, Algonquin shall file with the Secretary, for review and written approval by the Director of OEP, a site-specific construction and mitigation plan for the IPEC developed in consultation with Entergy.” *Id.* at 5-25 (emphasis in the original) (the “Hazard Mitigation Measures”).

¹² See 10 C.F.R. § 50.59(c)(2).

CO18-2

Comment noted. The Hudson River Northern Route Alternative is evaluated in section 3.5.1 of the EIS.

CO18 – Entergy (cont'd)

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CO18-2
(cont'd) below, Entergy would at this time oppose the alternate Northern Route or any other alternative routes that result in routing the new 42-inch diameter piping materially closer to IPEC.

A. Evaluation of the Proposed Southern Route

The Southern Route is further from IP2 and IP3 structures, systems and components ("SSCs") within the IPEC Security Owner Controlled Area ("SOCA"), which is used to control access to the main plant area, than Algonquin's existing pipeline system and the alternate Northern Route. However, the proposed new pipeline of the AIM Project has a larger diameter and operates at a higher pressure than the existing pipelines, thereby allowing it to transport

CO18-3 larger volumes of natural gas. Also, the Southern Route is nearer to certain SSCs important to the safe and efficient operation of IP2 and IP3, including the Gas Turbine ("GT") 2/3 Fuel Oil Storage Tank, Electrical Switchyard, Emergency Operations Facility ("EOF"), Meteorological Tower, and the City Water Tank. Accordingly, the new 42-inch pipeline would result in a change to IP2 and IP3 external hazards licensing basis, which did not consider such impacts. The impact of the AIM Project therefore must be evaluated in advance of construction pursuant to 10 C.F.R. § 50.59.

Given the proximity of the Southern Route to the above-listed SSCs, Algonquin and Entergy have conferred regarding means to avoid potential adverse impacts to the safe operation of IPEC. As a direct result of those efforts, Algonquin has agreed to implement additional Southern Route design and installation enhancements along approximately 3,935 feet of the pipeline to be located along the Southern Route in the Town of Cortlandt, near Broadway (MPs 4.6 to 5.3) (the "AIM Project IPEC-Related Safety Enhancements"). The AIM Project IPEC-Related Safety Enhancements include: (a) using 0.720 inch wall thickness and X-70 grade pipe that exceeds the most stringent Class 4 requirements set by US DOT; (b) installing two parallel

CO18-3 Comment noted. See the response to comment FA4-25.

CO18 – Entergy (cont'd)

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CO18-3
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sets of fiber-reinforced concrete slabs (3 feet wide by 8 feet long by 6-inch thick) over the pipeline that will act as a physical barrier to impede access to the pipe along with yellow warning tape above the concrete slab and another yellow warning tape 1 foot above the pipe; (c) burying the pipeline deeper, including a minimum depth of 4 feet from the top of the pipeline (and an additional foot deeper when crossing Broadway, a major local street adjacent to IPEC); and (d) providing thicker external corrosion protection and internal coating. In addition, construction of the AIM Project in the vicinity of IPEC will not require blasting for rock removal in the region of the AIM Project IPEC-Related Safety Enhancements; Algonquin will ensure that traffic flow is maintained during construction and that access to IPEC will not be impeded; a Direct Current Voltage Gradient survey will be performed to ensure coating integrity following enhanced pipe installation and partial backfill; and 100% of all field welds of enhanced pipeline will be subject to Non-Destructive Examination radiography. The AIM Project IPEC-Related Safety Enhancements are in addition to Algonquin's agreement to implement and abide by its Standard Operating Procedures ("SOP") applicable to the AIM Project.

Consistent with applicable NRC regulations and guidance and based on the final proposed routing, existing pipeline safety procedures and the additional design and installation enhancements that Algonquin has committed to, Entergy prepared a 10 C.F.R. § 50.59 Safety Evaluation related to the proposed AIM Project. Entergy also prepared two supporting evaluations: (1) Consequences of a Postulated Fire and Explosion Following the Release of Natural Gas from the Proposed New AIM 42" Pipeline Taking a Southern Route Near IPEC and an Analysis of the Causes, and (2) Determination of Exposure Rates Associated with a Failure of the Proposed AIM 42" Natural Gas Pipeline Near IPEC (collectively referred to as the "Hazards Analyses"). Both supporting Hazard Analyses were prepared for Entergy by the same consultant

CO18 – Entergy (cont'd)

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that prepared the hazards analysis for the existing pipelines near IPEC. Entergy submitted the 10 C.F.R. § 50.59 Safety Evaluation and Hazards Analyses to the NRC on August 21, 2014.¹³

As documented in the attached and publicly available 10 C.F.R. § 50.59 Safety Evaluation, Entergy has concluded that based on the proposed routing of the 42-inch pipeline further from safety related equipment at IPEC, and taking into account the substantial AIM Project IPEC-Related Safety Enhancements agreed to by Algonquin, the proposed AIM Project Southern Route poses no increased risks to IPEC and there is no significant reduction in the margin of safety. As documented in the 10 C.F.R. § 50.59 Safety Evaluation and supporting Hazards Analyses, Entergy has concluded that the change in the licensing basis external hazards analysis associated with the proposed AIM Project Southern Route does not require prior NRC approval. Accordingly, and based upon those analytical and regulatory assumptions, Entergy does not oppose FERC approval of the AIM Project with the selected Southern Route, assuming implementation of the AIM Project IPEC-Related Safety Enhancements.

As noted above, however, NRC has the right to review and challenge any analysis done pursuant to 10 C.F.R. § 50.59. Specifically, NRC may request additional information on the project and potential impacts on IPEC, disagree with Entergy's conclusions regarding such impacts, or require further mitigation measures. If that occurs, NRC's questions or concerns would, as a legal requirement, have to be addressed prior to construction of the AIM Project in the vicinity of IPEC. As part of that process, NRC conducted a preliminary inspection of the AIM Project 10 C.F.R. § 50.59 Safety Evaluation at IPEC during the week of September 22, 2014. NRC has not yet identified any concerns, but its review is ongoing. NRC also plans to conduct a further technical review of the supporting Hazards Analyses this fall. Entergy expects

¹³ The Safety Evaluation can be found at <http://phadupws.nrc.gov/docs/ML1425/ML14253A339.pdf>. The supporting Hazards Analyses have been withheld from public disclosure as Security-Related Information pursuant to 10 C.F.R. 2.390.

CO18 – Entergy (cont'd)

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CO18-3
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the results of NRC's inspection and review to be available prior to the publication of the Final EIS for the AIM Project, currently scheduled for December 19, 2014. Entergy strongly advocates that prior to acting on Algonquin's Certificate Application for the AIM Project, FERC must confer with the NRC regarding the results of NRC's review of Entergy's 10 C.F.R. § 50.59 Safety Evaluation and supporting Hazards Analyses in order to become fully informed as to whether any additional mitigation is determined by NRC to be necessary for the segment of piping routed near IPEC.¹⁴ If such additional mitigation is determined to be necessary to maintain the safety of IPEC, FERC should condition its grant of a certificate for the AIM Project on satisfactory implementation of such mitigation measures developed in consultation with Entergy and Algonquin.

In addition, Entergy strongly endorses the Hazard Mitigation Measures identified in the Draft EIS and urges FERC to adopt them in the final AIM Project EIS.

B. Evaluation of the Alternate Northern Route

Given Algonquin's selection of the Southern Route as the final selected pipe routing for the AIM Project, Entergy has not conducted a detailed analysis of the potential impacts of the Northern Route alternative, or other alternatives that may locate the new 42-inch line closer to IPEC. The Northern Route's addition of high-volume/high-pressure pipeline capacity closer to IPEC would require substantial additional safety analysis and, based on currently available information, could reduce the margin of safety thus requiring advance NRC review and approval. Therefore, at this time and based on selection of the 10 C.F.R. § 50.59-reviewed Southern Route,

¹⁴ A memorandum of agreement ("MOA") between the NRC and FERC was executed in 2009. In accordance with the MOA, the two agencies may consult with each other with regard to the availability of technical information that would be useful in areas of mutual interest. Entergy understands that NRC has contacted and informed FERC of NRC's involvement as a regulatory agency for IPEC.

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CO18-3
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Entergy opposes the Northern Route and any other alternative routes that would locate the AIM Project 42-inch expanded capacity pipeline closer to IPEC.

III. CONCLUSION

Entergy does not oppose the AIM Project along the final selected Southern Route provided that Algonquin implements the AIM Project IPEC-Related Safety Enhancements. As part of NRC's ongoing inspection and review process, however, NRC has the right to review and challenge any analysis done pursuant to 10 C.F.R. § 50.59. If that occurs, NRC's questions or concerns must, as a matter of law, be addressed prior to construction of the AIM Project in the vicinity of IPEC and may require additional enhancements to the AIM Project IPEC-Related Safety Enhancements. If that additional mitigation is determined to be necessary to maintain the safety of IPEC, FERC should condition its grant of a certificate for the AIM Project on satisfactory implementation of such mitigation measures developed in consultation with Entergy and Algonquin.

In addition, Entergy strongly endorses the Hazard Mitigation Measures identified in the Draft EIS and urges FERC to adopt them in the Final EIS.

Because of Algonquin's selection of the Southern Route and agreement to undertake the AIM Project IPEC-Related Safety Enhancements, Entergy has not conducted or submitted to the NRC the regulatory-required analysis of any alternatives that would route the AIM Project closer to IPEC. Entergy opposes any such routes at this time.

Respectfully submitted,

/s/ Charles A. Moore
Charles A. Moore
Paul M. Bessette
Morgan, Lewis & Bockius LLP

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*Attorneys for Entergy Nuclear Indian Point 2, LLC,
Entergy Nuclear Indian Point 3, LLC, and Entergy
Nuclear Operations, Inc.*

Dated: September 29, 2014

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC this 29th day of September, 2014.

/s/ Arjun P. Ramadevanahalli
Arjun P. Ramadevanahalli
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CO18 – Entergy (cont'd)

The attachments to this letter are too voluminous to include in this EIS. They are available for viewing on the FERC website at <http://www.ferc.gov>. Using the "eLibrary" link, select "General Search" from the eLibrary menu, enter the selected date range and "Docket No." excluding the last three digits (i.e., CP14-96-000), and follow the instructions. For assistance please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at 1-866-208-3676, or for TTY, contact 202-502-8659. The Category/Accession number for this submittal is 20140929-5183.

CO19 – Grassroots Environmental Education, Ellen Weininger

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GRASSROOTS
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September 29, 2014

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, D.C. 20426

Re: Algonquin Incremental Market (AIM) Project
Docket #CP14-96-000

Dear Ms. Bose,

We respectfully submit these comments on the Federal Energy Regulatory Commission's Draft Environmental Impact Statement (DEIS) for Spectra Energy's Algonquin Incremental Market (AIM) Project, Docket #CP14-96-000.

Grassroots Environmental Education is a science-based environmental health nonprofit with a mission to educate the public about the links between common environmental exposures and human health.

- CO19-1 FERC's conclusion that the AIM project will have no significant environmental impacts is baseless and flawed as evidenced by the incomplete and premature Draft EIS that outlines forty-two FERC staff recommendations in Section Five that involve missing required documents. The applicant's submission of these documents by the end of or after the public comment period deprives the public of a critically important opportunity to comment on the proposed AIM project and to provide invaluable information that should be considered before any decisions and conclusions are drawn by FERC and the other involved permitting agencies about the environmental impacts. The Draft EIS fails to meet the requirements of the National Environmental Policy Act (NEPA) and also fails to provide for mitigation plans prior to permitting. At a minimum, we request that the Draft EIS be withdrawn and all studies and documents be completed and a Supplemental Draft EIS be prepared and re-issued with a new public comment period of an additional 90 days.
- CO19-2 The most fundamental defect in the Draft EIS is that it excludes the Atlantic Bridge Project that involves further expansion of the same pipeline and compressor stations and impacts the same region of the AIM Project. This enables the illegal segmentation of the environmental review, a clear violation of NEPA. All documents for both projects should be submitted and evaluated together as one project not in segments.
- CO19-3 Another serious failure of the Draft EIS is the lack of an independent and transparent risk analysis of the AIM project. Of particular concern is the new 42" diameter, 850 psi gas pipeline segment from Stony Point in Rockland County which would traverse under the Hudson River into Westchester County and would intersect underground with 2 proposed 1,000 megawatt electrical lines within 1500 feet of the Indian Point nuclear power facility's forty years of radioactive spent fuel rods and other sensitive infrastructure near the Ramapo and Peekskill-Stamford seismic zone in a densely populated region. The new large diameter high pressure gas pipeline segment is also proposed to be constructed within 450 feet of the Buchanan-Verplanck Elementary School endangering the school's children, faculty and staff and places them within a High Consequence Area (HCA). Comprehensive risk assessments must be transparently and independently conducted and completed before a

CO19-1 See the responses to comments FA4-1, FA6-5, and SA1-12.

CO19-2 See the response to comment FA3-5.

CO19-3 See the responses to comments FA4-25, SA4-2, SA4-5, and SA7-4.

CO19 – Grassroots Environmental Education, Ellen Weininger (cont'd)

CO19-3 Supplemental Draft EIS is prepared and released for public comment and before any decisions are made regarding the AIM Project.

CO19-4 The Indian Point nuclear power facility is the only nuclear power plant in the United States that is sited next to gas pipelines. Current federal regulations call for risk assessment of hazards in close proximity to a nuclear power facility. The two proposed 1,000 megawatt electrical lines that intersect with the AIM project could spark in a process called arcing that could cause the pipeline to corrode or melt and lead to an explosion or fire with potentially long term catastrophic consequences to this region and the Northeast including contamination of soil, air and water supplies.¹

CO19-5 Information concerning modifications to the Metering and Regulating stations along the AIM pipeline route are also excluded from the DEIS. These stations are known to emit significant quantities of air pollutants and must be fully evaluated by involved permitting agencies and also reviewed by the public with an ample comment period. This region is already considered a non-attainment zone for air quality standards according to the U.S. EPA and exceeds the limits for air pollutants such as Particulate Matter and ground-level Ozone.² The compressor stations will be significantly expanded and those in New York, already classified as major sources of Hazardous Air Pollutants (Benzene, Toluene, Xylene, and Formaldehyde) are projected to emit toxins in excess of EPA threshold limits including those for Nitrogen Oxides, Volatile Organic Compounds, Carbon Monoxide and Particulate Matter and greenhouse gases such as Carbon Dioxide and Methane. These toxic exposures are associated with respiratory, neurological and cardiovascular disease, birth defects and cancer.^{3 4 5}

A peer-reviewed study based on air sampling and health surveys near gas production operations including compressor station infrastructure link health problems that are consistent with the health impacts of toxic pollutants detected in air sampling at participants' homes.⁶

Ground-level Ozone is formed when Volatile Organic Compounds combine with Nitrogen Oxides in the presence of heat and sunlight and can travel long distances. Breathing ground-level Ozone can trigger a variety of health problems including chest pain, coughing, throat irritation, and congestion. It can worsen bronchitis, emphysema, and asthma and can also reduce lung function and inflame the linings of the lungs. Repeated exposure may permanently scar lung tissue.⁷

According to the American Lung Association, Westchester, Putnam and Rockland Counties are ranked number 12 for high ozone days, number 16 for 24-hour particle pollution and number 13 for annual particle pollution out of 277 metropolitan areas. Children, fetuses, the elderly and those with existing health conditions including asthma, COPD, immune-compromised systems and cardiovascular disease are already significant at risk populations in the region.⁸ Children, infants and fetuses are uniquely vulnerable to toxic exposures. Pound for pound, they take in more contaminants

¹ AIM Project poses an unidentified risk to Indian Point, residents, September 2014: <http://www.lohud.com/story/opinion/contributors/2014/09/14/view-blanch-spectra-algonquin-pipeline-near-indian-point/15648143/>

² U.S. EPA: <http://www.epa.gov/oagps001/greenbk/anc1.htm>

³ U.S. EPA, Ground-level Ozone: <http://www.epa.gov/airquality/ozonepollution/basic.htm>

⁴ World Health Organization: Seven million premature deaths linked annually to air pollution: <http://www.who.int/mediacentre/news/releases/2014/air-pollution/en/>

⁵ Outdoor Particulate Matter exposure and lung cancer: A systematic review and meta-analysis, Hamra, G. et al, Environmental Health Perspectives: <http://ehp.niehs.nih.gov/1400092/>

⁶ Investigating links between shale gas development and health impacts through a community survey project in Pennsylvania, N. Steinzor, W. Subra, New Solutions 2013: http://courses.washington.edu/envir300/papers/Steinzor_et_al.2013.pdf

⁷ U.S. EPA, Ground-level Ozone: <http://www.epa.gov/airquality/ozonepollution/basic.htm>

⁸ State of the Air 2014: www.stateoffhealth.org

CO19-4

See the response to comment FA4-25. Power lines and pipelines are commonly sited near one another across the United States; we are aware of no occurrences of arcing of electric transmission lines creating a safety hazard by melting a buried pipeline. Increased electrical potentials in the ground near electric transmission lines do pose a corrosion risk for buried steel pipelines, but this risk is mitigable through proper corrosion engineering. See also the response to comment SA7-4.

CO19-5

See the responses to comments SA1-7, SA4-1, SA4-9, SA11-4, and LA4-6.

CO19 – Grassroots Environmental Education, Ellen Weininger (cont'd)

CO19-5 (cont'd)	<p>than adults and their organ systems are not fully developed which makes it more difficult for them to detoxify or eliminate toxins.⁹</p> <p>A recent peer-reviewed study by Dr. David Brown, et al, suggests that common air monitoring techniques used by state and federal regulators do not protect the public against health impacts. These techniques do not factor intensity, frequency or duration of exposures, weather events, inversions, synergistic effects of different toxic substances and increased transport of toxins deep into the lung by the presence of particulate matter.¹⁰ Independent and transparent baseline air testing and continuous monitoring of existing compressor stations and other gas pipeline infrastructure should be required and immediately implemented</p>	CO19-6 See the responses to comments SA4-9, CO12-10 and CO16-9.
CO19-6	The Draft EIS fails to evaluate cumulative impacts on air quality from the compressor stations, metering and regulating stations and other gas infrastructure in the AIM Project. Cumulative impacts must be fully assessed and Spectra Energy should not be given an opportunity to bypass EPA threshold limits by purchasing credits from other infrastructure in other regions that are below EPA limits. A formal Health Impact Assessment is critical and should be transparently conducted and completed to fully evaluate health care impacts of the project before issuing a Supplemental Draft EIS and before any further decisions are made by any of the involved agencies concerning the AIM Project.	CO19-7 See the response to comment SA4-10.
CO19-7		CO19-8 Section 4.11.1 of the EIS acknowledges the global warming potential of methane and provides the construction and operating emissions of all GHGs for the Project. Although the primary component of natural gas is methane, and leaks are accounted for, the majority of emissions from the Project are combustion related emissions - which primarily produce CO2 as a GHG.
CO19-8	Substantive discussion in the DEIS is also absent concerning climate change impacts of the Project asserting without basis that the AIM project would only contribute a very small percentage of greenhouse gas emissions despite the lack of complete emissions data and the disregard of Methane, the primary component of natural gas, as a more potent greenhouse gas than Carbon Dioxide. Peer-reviewed studies indicate that methane gas is more than eighty times more potent than carbon dioxide over a twenty year period and that the greenhouse gas footprint of Methane from shale gas and conventional natural gas has a larger greenhouse gas footprint than coal or oil for any possible use of natural gas and particularly for the primary uses of residential and commercial heating. ¹¹	CO19-9 See the response to comment FA4-24.
CO19-9	The Draft EIS fails to include a meaningful discussion concerning the aggregate impacts of the full life cycle of gas development, production and distribution and concludes "the local resources that may be affected by Marcellus Shale development would not be affected by the Project, and local resources affected by the Project would not be affected by development in the Marcellus Shale region. Therefore, cumulative impacts associated with Marcellus Shale development are not discussed further". Although leaks, flaring and venting contribute to significant amounts of methane, critical sources of potent greenhouse gas emissions, throughout the life cycle of natural gas development, production and transportation, its life cycle is not factored in the Draft EIS, yet, in section 3.2.2.2 on Fossil Fuels, the DEIS factors coal's life cycle greenhouse gas emissions and using old data incorrectly asserts the benefits of natural gas over coal and that the use of coal "would not meet the objectives of or provide the same benefits as the Project."	CO19-10 See the responses to comments FA4-23 and FA4-24.
CO19-10		CO19-11 Section 3.2.2.2 of the EIS has been revised to appropriately consider primary impacts in comparing alternatives associated with fossil fuels. See also the response to comment FA4-24.
CO19-11	Additionally, the DEIS factors secondary impacts associated with coal and oil production and states, "...unlike natural gas, coal use results in waste coal ash that requires disposal". However, the Draft EIS neglects to consider the billions of gallons of toxic, radioactive hydrofracking waste	

⁹ Children as a vulnerable population, Landrigan, P., International Journal of Occupational Medicine and Environmental Health, 2004: <http://test.imp.lodz.pl/upload/oficyna/artykuly/pdf/full.an21-01-04.pdf>

¹⁰ Understanding exposure from natural gas drilling puts current air standards to the test, Brown, D. et al, Reviews on Environmental Health, March 2014.

¹¹ A bridge to nowhere: methane emissions and the greenhouse gas footprint of natural gas, R. Howarth, Energy Science & Engineering April 2014.

CO19 – Grassroots Environmental Education, Ellen Weininger (cont'd)

CO9-11 produced from gas and oil extraction operations and the problems associated with disposal including seismic activity and soil and water contamination. ^{12 13 14 15}
(cont'd)

CO9-12 The Draft EIS also dismisses concerns regarding radon and radioactive contaminants in the gas pipeline and its infrastructure and potential for contamination during its operations and maintenance and lacks any mitigation planning.

It is well documented that the source of the natural gas supply, the Marcellus Shale, is known for its high levels of Radon. ¹⁶ Industry's own publication Guidelines for the Management of Naturally Occurring Radioactive Material (NORM) in the oil and gas industry by the International Association of Oil and Gas Producers states, "During the production process, NORM flows with oil, gas and water mixture and accumulates in scale, sludge and scrapings. It can also form a thin film on the interior surfaces of gas processing equipment and vessels,...radionuclides such as Lead-210 and Polonium-210 can be found in pipelines scrapings as well as sludge accumulation in tank bottoms,..."

The only industry study on Radon in pipelines was conducted by Lynn Anspagh, and found radon levels at 17 pCi/L in Lambertville, NJ. The U.S. EPA action level for Radon is 4 pCi/L. Anspagh does not account for Radon decay products and scaling in the pipeline and its infrastructure.

The gas being transported through the pipeline is laced with gaseous Radon and its decay products accumulate along the interior of the pipes. As the gas is compressed and regulated, radioactivity levels will pose a risk to workers at compressor and metering and regulating stations, valves and pigging stations. Residents are also at risk of exposure during these activities and as end point users of the gas in their kitchen stoves, ovens and other gas appliances. ¹⁷

CO9-13 In addition to Radon decay products, PCBs, black powder, and anaerobic microbes also accumulate in pipeline infrastructure including at pigging stations where pipes are inspected or cleaned and in condensate tanks at compressor and metering and regulating stations as well as in venting operations throughout the pipeline. Radioactive material can be inhaled when these contaminants are dislodged by mechanical means in pigging operations. During these activities pigging equipment becomes contaminated and can contaminate surrounding property. Stormwater runoff containing radioactive materials can migrate to nearby property and waterways potentially contaminating soil and water supplies. Radioactive contaminants can also be inhaled when they become airborne through dust particles. Radioactive materials do not dissipate, they spread further. ¹⁸

¹² Consideration of radiation in hazardous waste produced from horizontal hydrofracturing, I. White, National Council on Radiation Protection: <http://www.grassrootsinfo.org/pdf/whitereport.pdf>

¹³ Impacts of shale gas wastewater disposal on water quality in western Pennsylvania, R. Jackson, et al, Environmental Science and Technology, October 2013: <http://pubs.acs.org/doi/abs/10.1021/es402165b>

¹⁴ Analysis of reserve pit sludge from unconventional natural gas hydraulic fracturing and drilling operations for the presence of technologically enhanced naturally occurring radioactive material, A. Rich, et al, New Solutions, <http://www.ncbi.nlm.nih.gov/pbmed/23552651>

¹⁵ Injection wells blamed in Oklahoma earthquakes, Science, July 2014: <http://www.sciencemag.org/content/345/6192/13.summary>

¹⁶ Radon-222 content of natural gas samples from Upper and Middle Devonian sandstone and shale reservoirs in Pennsylvania: U.S. Geological Survey, 2012, E. Rowan and T. Kraemer

¹⁷ Resolution of Medical Society of the State of New York to Protect Public Health from Elevated Radon, April 2014: <http://concernedhealthnyny.org/wpcontent/uploads/2014/05/MSSNYResolution2014-154-ProtectinPublicHealthfromElevatedRadon.pdf>

¹⁸ Consideration of radiation in hazardous waste produced from horizontal hydrofracturing, I. White, National Council on Radiation Protection: <http://www.grassrootsinfo.org/pdf/whitereport.pdf>

CO19-12

We disagree. The commentor incorrectly compares an industry study radon level inside of a pipeline with an outdoor EPA action level. The commentor fails to take into account the reduction factors in radon levels due to the additional decay to the burner tip, ventilation efficiencies, and air dispersion. Section 4.11.1.3 of the EIS correctly provides the comparison of the study's resulting indoor radon level with EPA's cited indoor and outdoor radon levels. See also the response to comment SA4-4.

CO19-13

See the response to comment SA4-4.

CO19 – Grassroots Environmental Education, Ellen Weininger (cont'd)

CO19-14 Radon is the leading cause of lung cancer in non-smokers. There is no safe level of exposure. Radon is formed by the radioactive decay of Radium, Uranium and Thorium. Radium-226 has a half-life of 1600 years. Polonium and Lead are Radon's decay products. Lead's half-life is 22.3 years while Polonium has a half-life of 138 days and both are solids known to attach to dust particles. Lead is neurological poison with no safe threshold level of exposure. Low levels of Lead exposure are linked with cognitive deficits in children and increased blood pressure in adults. Low-level Lead exposure is an important risk factor for renal failure and has also been linked with low birth weight. Lead is classified as a probable human carcinogen while Polonium is considered a radioactive carcinogen. The exposure pathway of all three of these radioactive materials is through inhalation and possible ingestion. When Radon is inhaled it is absorbed by the lungs where it decays further into Polonium and Lead damaging lung tissue. Polonium and Lead are also known to damage DNA and RNA.¹⁹

It is imperative that monitoring of NORM according to regulatory framework of the International Atomic Energy Agency and the National Council on Radiation Protection be required and implemented for all gas and oil production and distribution operations.

Hazardous Materials Management Plan including plans for disposal of radioactive waste from condensate tanks and pipelines must also be required and implemented.

CO19-15 In Section 3, the Draft EIS dismisses renewable energy as viable energy alternatives. In March 2013, a peer-reviewed scientific study by Dr. Mark Jacobson of Stanford University, Dr. Anthony Ingraffea of Cornell University, Dr. Jannette Barth of the Petacont Institute, and other co-authors, called for aggressive transition to renewable energy using only readily available technologies already on the commercial shelf. The study explained the technical capacity and the economic feasibility of 80% conversion to renewable energy infrastructure by 2030 and 100% by 2050 in New York and across the nation. The wind, water, and sunlight plan, as it has been named, is a cost-effective plan that eliminates dependence on fossil fuels stimulates job growth, reduces greenhouse gas emissions, improves water and air quality, protects public health and lowers health care costs, stabilizes energy costs, and ensures energy independence and security. This game-changing plan not only fast tracks renewable energy, but also reduces our electric power demand by thirty-seven percent.²⁰ The Solutions Project provides the renewable energy plan for each state.²¹

Countless communities and municipalities across the country are making huge strides towards meeting energy needs through energy efficiency, conservation and renewable energy and are dramatically reducing demand for fossil fuels. Just last week Burlington, Vermont announced that it has achieved 100% renewable energy to meet all of its electricity needs.²² Tesla is building a major manufacturing factory complex (Gigafactory) that will meet all of its energy needs using 100% renewable energy.²³ The transportation sector across a variety of modes is meeting energy needs using renewable energy resources.²⁴ ²⁵

¹⁹ Textbook of Children's Environmental Health, 2014 P. Landrigan and R. Etzel

²⁰ Examining the feasibility of converting New York State's all-purpose energy infrastructure to one using wind, water, and sunlight, M. Jacobson et al, Energy Policy, 2013:

<http://web.stanford.edu/group/efmh/jacobson/Articles/I/NewYorkWWSenPolicy.pdf>

²¹ The Solutions Project: www.thesolutionsproject.org

²² Burlington, VT milestone in green energy efforts, September 2014:

<http://bigstory.ap.org/article/vermont-milestone-green-energy-efforts>

²³ Tesla will produce 20% more than its electrical needs:

<http://cleantechnica.com/2014/09/10/tesla-gigafactory-produce-20-electricity-needs/>

²⁴ All electric school buses: <http://ecowatch.com/2013/11/01/americas-first-all-electric-school-bus-california/>

²⁵ World's first battery powered bus: <http://ecowatch.com/2014/03/20/worlds-first-battery-powered-bus/>

CO19-14 Section 4.11.1.3 of the EIS has been revised to include additional information on radioactive materials and their decay products. See also the response to comments SA4-4.

CO19-15 See the responses to comments LA2-2 and CO7-5.

CO19 – Grassroots Environmental Education, Ellen Weininger (cont'd)

CO19-16 In a recent report, Price Waterhouse noted that emissions from the developed economies need to be consistently falling, and emissions from the major developing countries will also have to begin to decline. "G20 nations will need to cut their annual energy-related emissions by one third by 2030 and over half by 2050."²⁶

CO19-17 The continued exploitation of fossil fuels including natural gas serves corporate goals at a great toll to taxpayers but does not provide benefits to consumers, address climate change nor help meet energy independence or security especially with multi-national oil and gas companies setting sights on exports to command much higher prices for natural gas from overseas markets.^{27, 28}

CO19-18 In closing, FERC has failed to meet NEPA requirements with the premature release of the deficient Draft EIS and failed to support its conclusion that the AIM Project would not have significant environmental impacts. The Draft EIS should be withdrawn and no further action should be taken on the application of the AIM Project until all of the missing documents, independent and transparent risk and health impact assessments and baseline air testing are conducted and completed and all of the impacts are fully addressed and mitigated within the issuance of a new Supplemental Draft EIS followed by a 90 day public comment period.

Respectfully submitted by,

Ellen Weininger
Director, Educational Outreach
Grassroots Environmental Education
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CC: U.S. EPA Region 2 and Region 1
U.S. Army Corps of Engineers
New York State Department of Environmental Conservation
New York State Department of State
New York City Department of Environmental Protection
President Barack Obama
Congresswoman Nita Lowey
U.S. Senator Charles Schumer
U.S. Senator Kristen Gillibrand
New York Governor Andrew Cuomo
NYS Senator Andrea Stewart-Cousins
NYS Assembly Member Amy Paulin
NYS Assembly Member Tom Abinanti
County Legislator Catherine Parker
County Legislator Peter Harckham
County Legislator Mary Jane Shimsky
County Legislator Catherine Borgia
County Legislator Benjamin Boykin
Mayor Tom Roach

²⁶ A major accounting firm just ran the numbers on climate change, The Atlantic CityLab, Sept 2014:
<http://www.citylab.com/tech/2014/09/a-major-accounting-firm-just-ran-the-numbers-on-climate-change/379994/>

²⁷ The role of LNG in the Northeast natural gas and energy market, August 2014:
http://www.northeastgas.org/about_lng.php

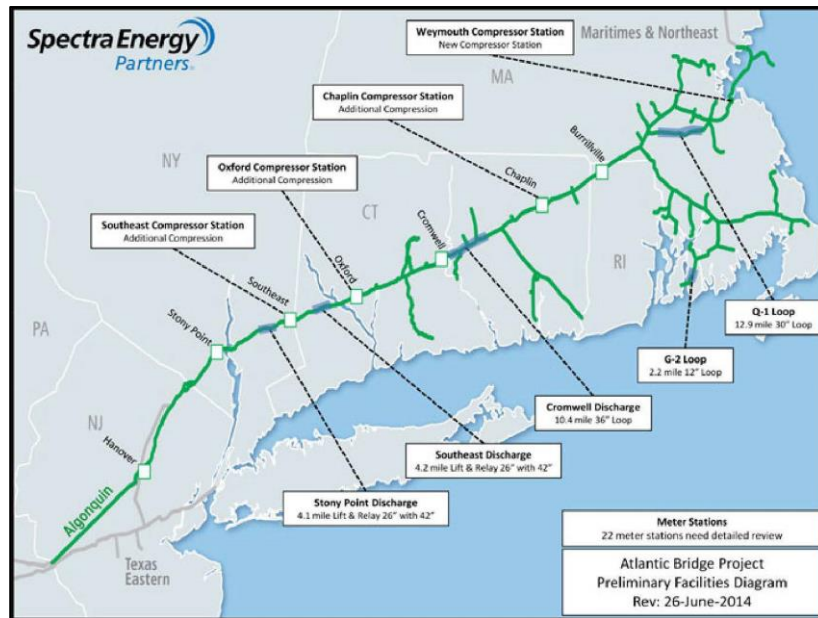
²⁸ Movin' Out- Exporting U.S. sourced LNG from the Maritimes, April 2014:
<https://sape2016.files.wordpress.com/2014/05/040214-movin-out-exporting-us-sourced-gas-from-the-maritimes.pdf>

CO19-16 Comment noted.

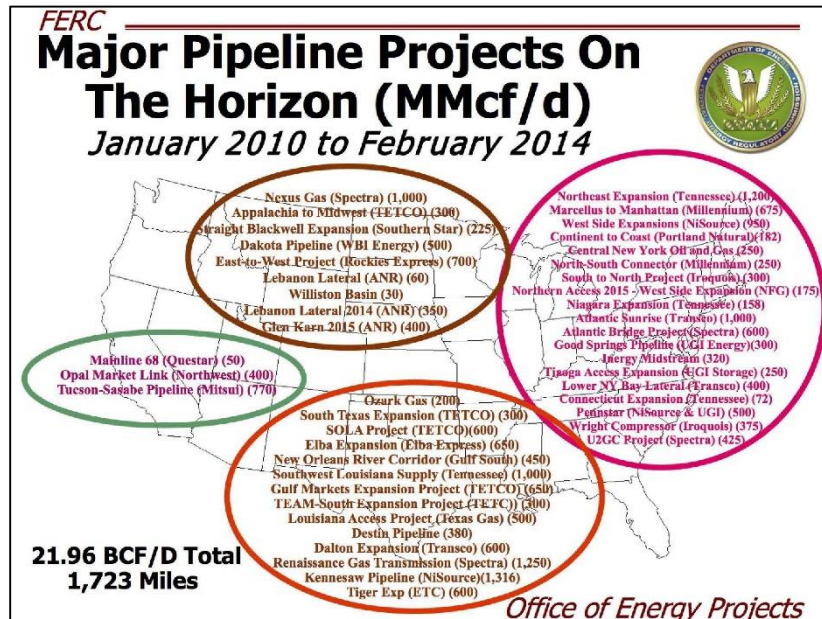
CO19-17 See the response to comment CO15-4.

CO19-18 See the responses to comments FA4-1, FA6-5, and SA1-12.

CO20 – Allegheny Defense Project



CO20 – Allegheny Defense Project (cont'd)



CO20 – Allegheny Defense Project (cont'd)



Allegheny Defense Project

Protecting and Restoring the Forests of the Allegheny Bioregion

September 29, 2014

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, D.C. 20426

Re: Algonquin Incremental Market Project Draft Environmental Impact Statement (Docket No. CP14-96-000)

Dear Secretary Bose:

The following comments are submitted on behalf of the Allegheny Defense Project and our supporters regarding the draft environmental impact statement ("DEIS") for Algonquin Gas Transmission's ("Algonquin") proposed Algonquin Incremental Market Project ("AIM Project" or "Project"). Algonquin proposes to 1) replace 26.3 miles of existing 16-inch-diameter pipeline with 42-inch-diameter pipeline, 2) extend an existing loop with 3.3 miles of additional 12- and 36-inch-diameter pipeline, 3) install 8 miles of new 16-, 24-, and 42-inch-diameter pipeline, 4) modifications to six existing compressor stations; and abandon four existing compressor units at one compressor station.

CO20-1 The DEIS is flawed in many respects. The DEIS fails to take a hard look at many direct, indirect, and cumulative effects related to construction and operation of the AIM Project. Most notably, the DEIS fails to adequately consider the cumulative effects of past, present, and reasonably foreseeable future actions, including natural gas drilling in the Marcellus, Utica, and other shale gas formations. These impacts must be rigorously explored and objectively evaluated before FERC makes a final decision.

Moreover, FERC's failure to consider and compare these environmental impacts in conjunction with the alleged benefits of the proposed Project constitutes a substantive failure under the Natural Gas Act ("NGA"). Simply put, the environmental impacts of the proposed projects in conjunction with the indirect and cumulative effects of gas drilling in the Marcellus and Utica shale formations reveal that the projects are not in the public interest and not required by the public convenience and necessity. FERC should therefore deny Algonquin's application for a certificate of public convenience and necessity ("Certificate").

I. Regulatory Framework

A. National Environmental Policy Act

The National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-37, is "our basic national charter for protection of the environment" and all federal agencies "share responsibility for enforcing the Act so as to achieve the substantive requirements of section 101." 40 C.F.R. §

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CO20-1

We disagree. The EIS takes a hard look at all the applicable impacts associated with the Project. Cumulative impacts, including the potential cumulative impacts with Marcellus shale activities are evaluated in section 4.13 of the EIS. See also response to comment FA4-24.

CO20 – Allegheny Defense Project (cont'd)

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1500.1(a). NEPA requires federal agencies to take a “hard look” at the environmental impacts of a proposed action and to “provide for broad dissemination of relevant information.” See *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350-52 (1989). Among the critical purposes of the statute are to “insure that environmental information is available to public officials and citizens before decisions are made and actions are taken,” and to “help public officials make decisions that are based on understanding of environmental consequences.” 40 C.F.R. § 1500.1(b)-(c).

To accomplish these purposes, NEPA requires all federal agencies to prepare a “detailed statement” regarding all “major federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(C). This “environmental impact statement” (EIS), must describe (1) the “environmental impact of the proposed action,” (2) any “adverse environmental effects which cannot be avoided should the proposal be implemented,” (3) alternatives to the proposed action, (4) “the relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity,” and (5) any “irreversible or irretrievable commitment of resources which would be involved in the proposed action should it be implemented.” 42 U.S.C. § 4332.

NEPA requires that when an agency proposes to undertake an “action” – which includes “projects or programs entirely or partly ... regulated[] or approved by federal agencies,” 40 C.F.R. § 1508.18 – the agency “must first determine whether the action is one that normally requires” the preparation of an EIS pursuant to NEPA and the Council on Environmental Quality (CEQ) regulations implementing NEPA. 40 C.F.R. § 1501.4(a).¹ If the agency is not certain whether an EIS is required, it must prepare an Environmental Assessment (EA) to determine whether an EIS is necessary. 40 C.F.R. § 1501.4. The EA must discuss the need for the proposal, evaluate alternatives that would cause less adverse environmental impacts, and provide sufficient evidence and analysis to support the agency’s determination as to whether the proposed action will significantly affect the environment. *Id.*

NEPA further requires that “[p]roposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.” 40 C.F.R. § 1502.4(a). An EIS is required for certain “broad Federal actions” and, in such cases, agencies shall prepare an EIS of proper scope “so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking.” 40 C.F.R. § 1502.4(b). CEQ regulations further provide that:

“[w]hen preparing statements on broad actions ... agencies may find it useful to evaluate the proposal(s) ... [g]eographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.”

40 C.F.R. § 1502.4(c)(1).² CEQ guidance states that an EIS must be prepared if an agency proposes to implement a “specific policy” or “adopt[s] a plan for a group of related actions[.]” Council on Environmental Quality, Memorandum to Agencies: Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations, 18 (1981). CEQ also advises that:

¹ FERC’s regulations supplementing CEQ’s NEPA regulations provide that an EIS “will normally be prepared” for the siting, construction, and operation of liquefied natural gas facilities, development of underground natural gas storage facilities, major pipeline construction projects using rights-of-way in which there is no existing natural gas pipeline, and certain water power projects. 18 C.F.R. § 380.6(a).

² See also 40 C.F.R. § 1502.4(c)(2), which calls for an EIS for broad Federal actions “which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter.”

CO20 – Allegheny Defense Project (cont’d)

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the preparation of an area-wide or overview EIS may be particularly useful when similar actions, viewed with other reasonably foreseeable or proposed agency actions, share coming timing or geography. For example, when a variety of energy projects may be located in a single watershed ... the overview or area-wide EIS would serve as a valuable and necessary analysis of the affected environment and the potential cumulative impacts of the reasonably foreseeable actions under that program or within that geographical area.

Id.

B. Endangered Species Act

The Endangered Species Act (ESA) requires all federal departments and agencies to “seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of [the ESA].” 16 U.S.C. § 1531(c)(1). FERC must utilize its authority “in furtherance of the purposes of [the ESA] by carrying out programs for the conservation of endangered species and threatened species[.]” 16 U.S.C. § 1536(a)(1). All federal agencies shall consult with the Secretary of Interior to in ensure that “any action authorized ... by such agency ... is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat[.]” *Id.* at § 1536(a)(2). If jeopardy or adverse modification is found, the Secretary shall suggest those “reasonable and prudent alternatives” that would not violate subsection (a)(2) and can be taken by the federal agency or applicant. *Id.* at § 1536(b)(3)(A).

C. Natural Gas Act

The Natural Gas Act of 1938 authorizes FERC to regulate the interstate transportation and sale of natural gas. 15 U.S.C. §§ 717 – 717z. When deciding whether or not to issue a certificate, FERC examines the environmental impact, other alternatives, technical competence, financing, rates, market demand, gas supply, long-term feasibility, and other issues concerning a proposed project that are relevant to the public interest. Certification of New Interstate Natural Gas Pipeline Facilities, Statement of Policy, 88 FERC ¶ 61,227, Docket No. PL99-3-00 (Sept. 15, 1999) at 22-23, 27, *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement); *see generally* *Permian Basin Area Rate Cases*, 390 U.S. 747, 791 (1967). One of the goals of the Certificate Policy Statement is “the avoidance of unnecessary disruption of the environment.” *Id.* at 2.

II. The DEIS fails to consider other connected, cumulative, and similar projects.

FERC is required to consider three types of actions in its environmental analysis: connected, cumulative, and similar. 40 C.F.R. § 1508.25(a). Actions are connected if they are closely related and automatically trigger other actions which may require an EIS, cannot or will not proceed unless other actions are taken previously or simultaneously, or are interdependent parts of a larger action and depend on the larger action for their justification. *Id.* at § 1508.25(a)(1). Cumulative actions are those actions that, when viewed with other proposed actions, have cumulatively significant impacts and should therefore be discussed in the same EIS. *Id.* at § 1508.25(a)(2). Similar actions are those actions that, when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. *Id.* at § 1508.25(a)(3). An agency should analyze similar actions in the same EIS when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single EIS. *Id.* Importantly,

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“significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.” 40 C.F.R. § 1508.27(b)(7).

CO20-2 In addition to the AIM Project:

Algonquin is also currently evaluating proposals to modify other parts of its existing interstate natural gas pipeline system to meet the growing market demand for increased energy (Algonquin, 2014d). This planned expansion is referred to as the Atlantic Bridge Project and would involve work in New York, Connecticut, Rhode Island, and Massachusetts. *Similar to the scope of the AIM Project*, the planned facility modifications associated with the Atlantic Bridge Project would generally consist of replacing sections of existing pipeline, increasing compression at existing compressor stations, and modifying a number of existing meter stations to provide for increased deliveries. The specific details about the Atlantic Bridge Project are currently not developed and no applications have been filed. However, if this project were to move forward, it does appear that there would be facilities within the same region of influence as the AIM Project. Impacts associated with the Atlantic Bridge Project would be similar to those of the AIM Project (i.e., short term and localized during construction). *Although the same region of influence would be affected, the temporal scale of the projects is different. The AIM Project would be constructed in 2015 and 2016. The earliest the Atlantic Bridge Project would be placed into service would be November 2017. If the Atlantic Bridge Project gets constructed, air emissions during operation of compressor stations would overlap with the operational emissions of the AIM Project. However, compressor station modifications would need to go through the same permitting process as the AIM Project facilities. Because the Atlantic Bridge Project would not occur at the same time as the AIM Project, and because details are not known, it is not considered further in this analysis.*

DEIS at 4-272 (emphasis added). FERC must consider the AIM Project and the Atlantic Bridge Project in the same EIS because they are connected, cumulative and similar actions. Despite explicitly stating that the projects are similar in scope and geography, however, FERC erroneously concludes that because the projects would not be constructed “at the same time” they need not be considered in the same analysis. FERC’s conclusion is undermined by the facts.

The AIM Project and the Atlantic Bridge Project are connected actions because they are interdependent parts of a larger action and depend on the larger action for their justification. As just stated, FERC admits that the two projects are similar in scope and would impact the “same region of influence.” This, however, does not fully disclose their interrelatedness. As the maps below indicate, the AIM Project and the Atlantic Bridge Project propose activities that will substantially overlap along the same mainline.

CO20-2

See the response to comment FA3-5. Further, we note that generic information about the Atlantic Bridge Project is available, such as the amount of mileage for various pipeline segments, the locations of additional compression, and rough acres of anticipated disturbance. However, we disagree that the details about this project, such as the amount or type of compression at each facility and associated estimate of emissions or the exact acreages of land to be disturbed, number of stream/wetland crossings, residential areas, etc. along the pipeline segments are available to develop an informed cumulative impacts analysis. The discussion of cumulative impacts for Atlantic Bridge Project has been updated to qualitatively reflect the most current information available.

CO20 – Allegheny Defense Project (cont'd)

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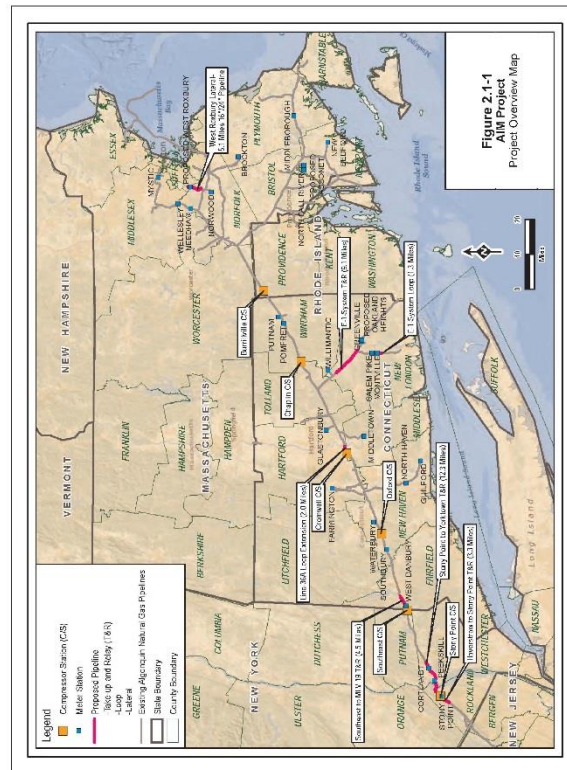
Figure 1: AIM Project Map

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CO20 – Allegheny Defense Project (cont'd)

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2-2

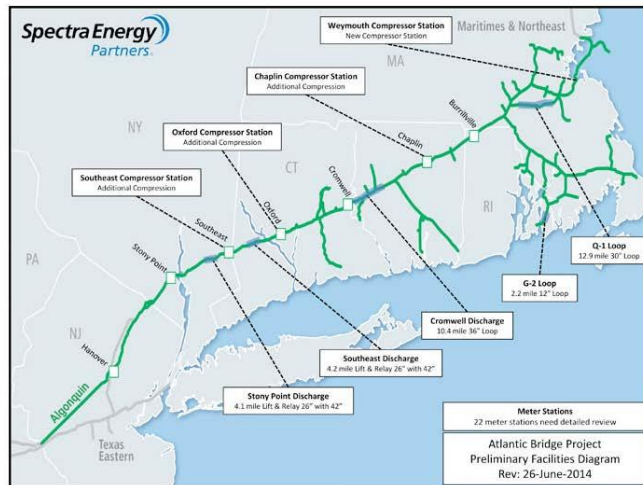
Source: AIM Project DEIS at 2-2.

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CO20 – Allegheny Defense Project (cont'd)

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Figure 2: Atlantic Bridge Project Map



Spectra Energy Partners, Atlantic Bridge Project, available at http://www.spectraenergy.com/content/inline-images/Maps/map_atlantic_bridge_full2.jpg (Attachment 1).

CO20-2 (cont'd) As the two project maps show, Algonquin's proposed activities overlap at several points. The map for the Atlantic Bridge Project also contradicts FERC's assertion in the DEIS that "details are not know[n]" about that project.

For example, Algonquin states that there will be additional compression at the Southeast, Oxford, Chaplin compressor stations and a new Weymouth compressor station. Algonquin further reveals that it will replace 8.3 miles of 26-inch-diameter pipeline with 42-inch-diameter pipeline (Stony Point Discharge and Southeast Discharge), 10.4 miles of 36-inch-diameter loop (Cromwell Discharge), 2.2 miles of 12-inch-diameter loop (G-2 Loop) and 12.9 miles of 30-inch-diameter loop (Q-1 Loop). According to the website for the Atlantic Bridge Project, customer response for the project "was both positive and favorable, in line with expectations, and we plan to move forward with the Project." Spectra Energy, New Projects and Our Process, Atlantic Bridge Project (emphasis added), available at <http://www.spectraenergy.com/Operations/New-Projects-and-Our-Process/New-Projects-in-US/Atlantic-Bridge/> (Attachment 2).

Thus, FERC's claim that the details of the Atlantic Bridge Project are not known is spurious, at best. There is certainly enough information to warrant consideration of the two projects in the same EIS.

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CO20 – Allegheny Defense Project (cont'd)

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CO20-2
(cont'd)

Additionally, the two projects are part of Algonquin's larger goal of expanding its infrastructure to provide more natural gas to the Northeast and Maritime Provinces. For example, according to the website for the AIM Project:

The [AIM] Project will *provide the Northeast* with a unique opportunity to secure a cost effective, domestically produced source of energy to support its current demand, *as well as its future growth*, for clean [sic] burning natural gas.

The AIM Project – an infrastructure investment that *expands the pipeline capacity of our existing Algonquin Gas Transmission system* – will allow abundant regional natural gas supplies from the Appalachian basin to flow reliably *into the Northeast*.[.]

Spectra Energy, New Projects and Our Process, [AIM] Project (emphasis added), available at <http://www.spectraenergy.com/Operations/New-Projects-and-Our-Process/New-Projects-in-US/Algonquin-Incremental-Market-AIM-Project/> (Attachment 3). According to the website for the Atlantic Bridge Project:

The Atlantic Bridge Project, a proposed expansion of the Algonquin Gas Transmission (Algonquin) and Maritimes & Northeast Pipeline (Maritimes) systems, will connect abundant North American natural gas supplies with markets in the *New England states and the Maritime provinces*.

Efforts by the six New England states are under way to bring additional natural gas into the region. Algonquin and Maritimes are *strategically positioned to answer New England's need* for domestic, clean-burning [sic] natural gas.

Attachment 2 (emphasis added). In other words, the projects are part of a larger action to supply the Northeast U.S. and Maritime Provinces with natural gas produced in the Marcellus and Utica shale formations. Step one (the AIM Project) expands capacity along Algonquin's existing transmission system. Step two (the Atlantic Bridge Project) further expands capacity along that same system and the Maritimes system. Just because neither Algonquin nor FERC have explicitly stated that there is a larger action does not mean there is not a larger action for purposes of NEPA. This is supported by the D.C. Circuit Court of Appeals recent decision in *Delaware Riverkeeper v. FERC*.

In that case, the D.C. Circuit considered whether Tennessee Gas Pipeline Company ("Tennessee") improperly segmented four pipeline upgrades along the Eastern Leg of its 300 Line. *Delaware Riverkeeper v. FERC*, 753 F.3d 1304, 1310 (D.C. Cir. 2014). Tennessee filed separate applications with FERC for each of the four projects and FERC prepared separate environmental assessments for each project. The D.C. Circuit rejected FERC's and Tennessee's arguments that the projects had not been segmented:

Tennessee Gas states that it did not know at the time it commenced the 300 Line Project that it was embarking on a series of upgrade projects that would soon transform the entire pipeline. That may be so. But the important question here is whether FERC was justified in rejecting commenters' requests that it analyze the entire pipeline upgrade project once the Northeast Project was under review and once the parties had pointed out the interrelatedness of the sequential pieces of pipeline which were, in fact, creating a complete, new, linear pipeline. Because of the temporal overlap of the projects, the scope and interrelatedness of the work should have been evident to FERC as it reviewed the Northeast Project. Yet FERC wrote and relied upon an EA that failed to consider fully the contemporaneous, connected projects.

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CO20 – Allegheny Defense Project (cont'd)

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CO20-2
(cont'd)

Id. at 1318. In other words, it is irrelevant whether Algonquin has identified by name a larger action that consists of the AIM and Atlantic Bridge Projects. Rather, the important question here is whether FERC must consider the two projects in the same EIS due to their interrelatedness. As in *Delaware Riverkeeper*, “[b]ecause of the temporal overlap of the projects, the scope and interrelatedness of the work should [be] evident to FERC[.]”

FERC attempts to get around the temporal overlap between the AIM Project and the Atlantic Bridge Project by simply stating that “the temporal scale of the projects is different” and they “would not occur at the same time.” DEIS at 4-272. Again, the *Delaware Riverkeeper* decision is instructive here. As the court stated:

We emphasize here the importance we place on the timing of the four improvement projects. Separated by more time, the projects could have utility independent of the other projects....To take an obvious example, if the 300 Line Project had been placed into service a decade before FERC considered the Northeast Project application, the timing of the projects would support, rather than undermine, the conclusion that the projects had utility independent of each other.

Delaware Riverkeeper, 753 F.3d at 1318. As it was, however:

The disputed Northeast Project was the third of the four pipeline construction projects completed in quick succession....During the course of FERC’s review of the Northeast Project application, the other three upgrade projects were either under construction (as with the 300 Line Project) or were also pending before FERC for environmental review and approval (as with the Northeast Supply Diversification Project and the MPP Project).

Id. at 1314 (emphasis added). Like the situation in *Delaware Riverkeeper*, if FERC authorizes the AIM Project, it is highly likely that it will be reviewing the Atlantic Bridge Project while the AIM Project is “under construction.” It is possible that the Atlantic Bridge Project could even be pending before FERC before it makes a final decision regarding the AIM Project. Therefore, FERC’s claim that “the temporal scale of the projects is different” is without merit. The fact that construction of the projects “would not occur at the same time” is similarly without merit, as the D.C. Circuit held in *Delaware Riverkeeper*. Therefore, the AIM Project and the Atlantic Bridge Project are connected actions that should be discussed in the same EIS.

The AIM Project and Atlantic Bridge Project are also cumulative actions, which are those actions that, when viewed with other proposed actions, have cumulatively significant impacts and should therefore be discussed in the same EIS. 40 C.F.R. § 1508.25(a)(2). In *Hammond v. Norton*, the District Court for the District of Columbia considered whether the Department of Interior (“DOI”) erred in refusing to analyze a pipeline expansion as a cumulative action with its analysis regarding a right-of-way (“ROW”) request. The court found in DOI’s favor but only because “the information about the Holly pipeline expansion came to light after DOI decided to grant Williams’ ROW request[.]” *Hammond v. Norton*, 370 F.Supp.2d 226, 255 (D.D.C. 2005) (emphasis in original). Here, the information about the Atlantic Bridge Project is coming to light well before FERC’s decision on the AIM Project. Therefore, FERC should analyze both projects in an EIS.

Finally, the AIM Project and Atlantic Bridge Project are similar actions, which are those actions that, when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. 40 C.F.R. § 1508.25(a)(3). An agency should analyze similar actions in the same EIS when the best way to assess adequately the combined impacts of similar actions or

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CO20 – Allegheny Defense Project (cont'd)

CO20-2 (cont'd)	<p>reasonable alternatives to such actions is to treat them in a single EIS. <i>Id.</i> As explained above, the two projects have similar timing and geography. Moreover, the Atlantic Bridge Project is clearly “reasonably foreseeable” since Algonquin has already “executed an agreement with Unifit Corporation to participate as an anchor shipper in the project” and the market response to the open season led Algonquin “to move forward with the Project.” Attachment 2. Therefore, the projects are similar actions that should be analyzed in the same EIS.</p>
CO20-3	<p>III. The DEIS does not adequately consider the indirect effects of the AIM Project.</p> <p>FERC must consider the indirect effects of the AIM Project. Indirect effects are:</p> <p style="padding-left: 40px;">caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.</p> <p>40 C.F.R. § 1508.8(b). Natural gas drilling is an indirect effect of the AIM Project that must be considered in the EIS. Unfortunately, FERC states that:</p> <p style="padding-left: 40px;">The demand for energy and the proposed Project are a result of, rather than a precursor to, development in this region. Therefore, the Project would not result in adverse growth-inducing effects.</p> <p>DEIS at 4-276. This is contradicted by Algonquin itself since its expressly states on its website for the AIM Project that the Project “will provide the Northeast with...energy to support its current demand, <i>as well as its future growth</i>, for clean burning [sic] natural gas.” Attachment 3 (emphasis added).</p> <p>Moreover, the companies that are drilling for natural gas rely, at least in part, on pipeline construction and expansion to get natural gas to market. Without ongoing pipeline expansion projects, such as the AIM Project, natural gas producers would likely be faced with the prospects of stranded gas, which would lead them to be more cautious in their drilling activities. Thus, the relative speed in which FERC reviews and approves natural gas transmission projects provides certainty to gas producers that produced gas will not be stranded. That certainty is visually represented by the following FERC document.</p>

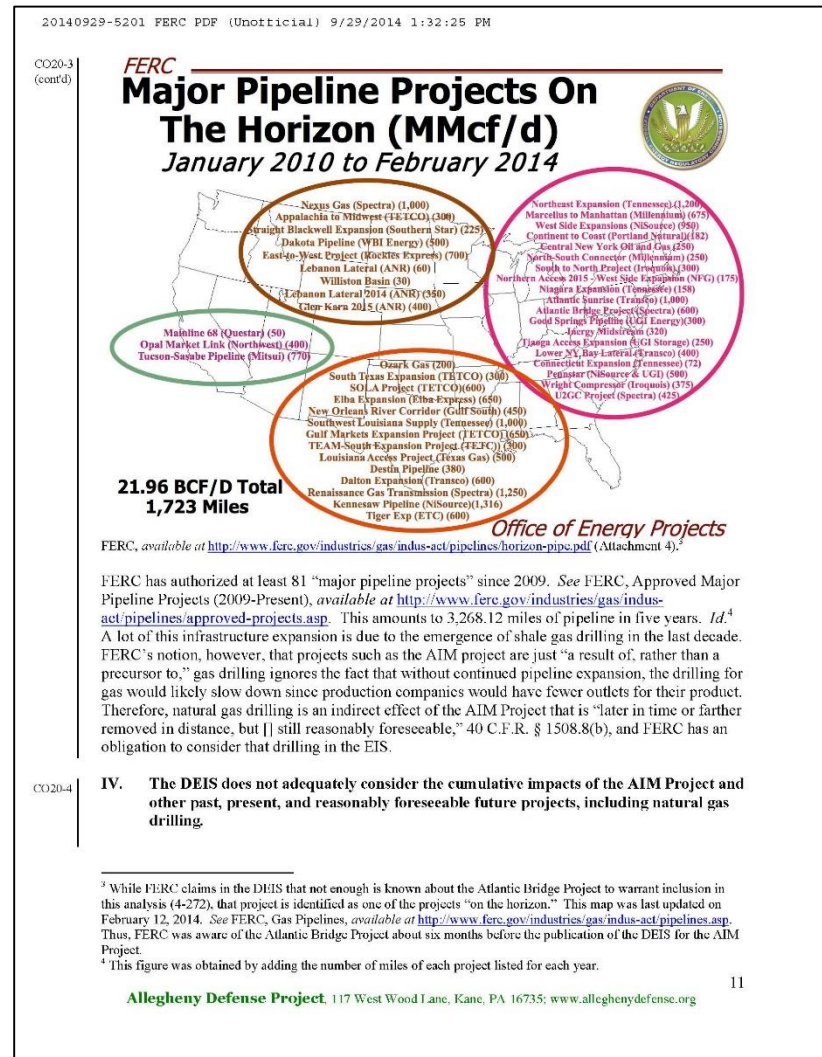
CO20-3 See the responses to comments FA4-24 and CO20-1.

Figure 3: Major Pipeline Projects on the Horizon (Jan. 2010 – Feb. 2014).

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CO20 – Allegheny Defense Project (cont'd)



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Section 4.13 of the EIS discusses the criteria for including activities, including non-FERC jurisdictional activities, within the scope of the cumulative impact analysis. Consistent with CEQ and EPA guidance, we make a practical delineation of the spatial and temporal scales, in order to include all potentially significant effects on resources of concern. We consider the extent of the AIM Project's impact, which varies according to the resource being discussed, as well as the temporal element, to delineate a boundary within which other activities should be captured in the analysis. The shale gas production wells the commentors identify are located over 80 miles away from the nearest AIM Project facilities and local resources that may be affected by shale development, which lie well over 10 miles away from the AIM Project facilities, would not be affected by the AIM Project. Local resources affected by the AIM Project would not be affected by development in the shale regions. We, therefore, disagree that unspecified shale gas activities occurring beyond the range of the AIM Project impacts should be included in the cumulative impact analysis.

CO20 – Allegheny Defense Project (cont'd)

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Even if FERC does not consider natural gas drilling to be an indirect effect of the AIM Project, it still must consider such drilling as part of the cumulative impacts analysis for the AIM Project. Cumulative impact is:

The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

40 C.F.R. § 1508.7. FERC's entire discussion of the cumulative impacts of natural gas drilling in the DEIS is contained in a single paragraph:

We received numerous comments during scoping for the Project about cumulative impacts associated with development of natural gas reserves (including hydraulic fracturing) in the Marcellus Shale region. Marcellus Shale development activities may be considered under the category above for major transportation and energy development projects; however, activities associated with Marcellus Shale development would occur well over 10 miles from the AIM Project construction area, outside of the sub-watersheds crossed by the AIM Project facilities, and outside of the AQCRs for the AIM Project compressor stations. As a result, the local resources that may be affected by Marcellus Shale development would not be affected by the Project, and local resources affected by the Project would not be affected by development in the Marcellus Shale region. Therefore, cumulative impacts associated with Marcellus Shale development are not discussed further.

DEIS at 4-276. In other words, FERC claims it can ignore the substantial cumulative impacts of natural gas drilling because it arbitrarily constructed overly restrictive parameters for purposes of determining what constitutes a cumulative impact. FERC's parameters are inconsistent with the plain language and the CEQ regulations and the intent and spirit of NEPA itself.

Just because the natural gas drilling is occurring "over 10 miles from the AIM Project construction area" does not mean that it is not a cumulative impact. The plain language of the regulation states that FERC must consider "the impact on the *environment*" from the proposed action and other actions. It does not state that FERC must only consider the impact on the environment within 10 miles of the proposed action.⁵

The Environmental Protection Agency ("EPA") has warned agencies that:

Spatial and temporal boundaries should not be overly restricted in cumulative impact analysis. Agencies tend to limit the scope of their analyses to those areas over which they have direct authority or to the boundary of the relevant management area or project area. This is often inadequate because it may not cover the extent of the effects to the area or resources of concern. The most common temporal scope is the life of the project. This may not be appropriate if the effects last longer than the project's useful life.

EPA, Consideration of Cumulative Impacts in EPA Review of NEPA Documents, EPA 315-R-99-002, p. 8 (May 1999), available at <http://www.epa.gov/compliance/resources/policies/nepa/cumulative.pdf> (Attachment 5). This is precisely what FERC has done here. For example, FERC states that:

⁵ Although FERC uses 10 miles as the extent to which it would consider whether to include an action within the cumulative impacts analysis, it states elsewhere that the analysis was actually focused on just those other actions that occur or could occur within 0.25 miles of the AIM Project. See DEIS at 4-271. This is far too restrictive, especially when considering infrastructure projects that facilitate the transport of natural gas from supply areas to market areas.

CO20 – Allegheny Defense Project (cont'd)

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We received comments that Marcellus shale production activity should be included in the scope of the proposed Project. The Project does not include the production of natural gas. The scope of this EIS focuses on the natural gas transmission facilities that Algonquin would construct and operate. Our authority under the NGA and NEPA review requirements relate only to natural gas facilities that are involved in interstate commerce. Thus, the facilities associated with the production of natural gas are not under FERC jurisdiction.

DEIS at 1-4. In other words, FERC “limit[ed] the scope of [its] analysis to those areas over which [it has] direct authority.” This is directly counter to EPA’s guidance, which FERC claims to have followed. See DEIS at 4-271. More importantly, it is inconsistent with 40 C.F.R. § 1508.7, which explicitly requires FERC to consider other actions “regardless” of whether those other actions fall under FERC’s jurisdiction. Where, as here, FERC is confronted with a project that is directly tied to natural gas drilling from a particular region, FERC has an obligation to consider the cumulative impacts of that drilling.

Moreover, FERC’s obligation to consider the cumulative impacts of natural gas extraction in conjunction with gas infrastructure projects is particularly germane in light of the fact that FERC’s official policy is to increase the nation’s reliance on natural gas. As we have explained at length in other proceedings, previous Commissioner statements as well as official FERC documents reveal the agency’s aggressive and sustained endeavor to increase infrastructure for natural gas transmission. For example, in 2012, Commissioner Cheryl A. LaFleur⁶ invited comments on how FERC “can improve [its] work on pipeline and storage infrastructure to *ensure that the gas infrastructure is in place to support the nation’s growing reliance on gas for [electric] generation.*” FERC, Commissioner Cheryl A. LaFleur Statement, Feb. 16, 2012, Docket No. RM96-1-037, Item No. G-1, Standards for Business Practices for Interstate Natural Gas Pipelines (emphasis added), available at <http://www.ferc.gov/media/statements-speeches/lafleur/2012/02-16-12-lafleur-G-1.asp> (Attachment 6).

Additionally, in its Strategic Plan for 2014-2018, FERC states that:

Within the strategic plan, *goals* represent broad outcomes that FERC is trying to achieve. The first two goals are mission critical and correspond to key aspects of FERC’s legislative authority. The third goal is a mission support goal focused on establishing a foundation of organizational excellence that enables the achievement of FERC’s mission. The objectives in this plan describe more specific, action-oriented steps that FERC will employ to meet the goal.

FERC, Strategic Plan FY 2014-2018, pp. 4-5, Mar. 2014 (italicized emphasis in original; other emphasis added) (Attachment 7). The second goal of the Strategic Plan that FERC is “trying to achieve” is to “promote safe, reliable, secure, and efficient infrastructure.” *Id.* at p. 17. The first objective that FERC is “employ[ing] to meet the goal” is Objective 2.1, which is “to foster economic and environmental benefits for the nation *through approval of natural gas ... projects.*” *Id.* (emphasis added). The Strategic Plan further states for this objective:

Demand for natural gas in the United States is at its highest levels on record, and natural gas production continues to increase *due to the development of shale gas*. Among its many uses, *natural gas is a substantial and growing resource for electric power generation*, in part due to the current low price of natural gas. *The responsible development of interstate natural gas infrastructure –*

⁶ Commissioner LaFleur is now FERC’s Chairwoman.

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pipelines, storage, and LNG facilities – is a critical link to ensuring that natural gas supply can reach market areas.

Id. (emphasis added). Thus, it is FERC's declared objective to *foster* the construction and expansion of natural gas infrastructure, which mirrors Chairwoman LaFleur's objective to "ensure that the gas infrastructure is in place to support the nation's growing reliance on gas for [electric] generation."

With this stated objective, FERC cannot ignore the inevitable and reasonably foreseeable environmental consequences of natural gas extraction that is directly connected to the infrastructure projects under FERC's jurisdiction. 40 C.F.R. § 1508.7. If FERC claims that increasing infrastructure for expanded use of natural gas has "environmental benefits for the nation," then FERC cannot ignore the detrimental environmental consequences of increased natural gas drilling that is directly related to the need for infrastructure projects, including the AIM Project. Therefore, FERC must consider the cumulative impacts of natural gas drilling.

In addition to statements above which reflect FERC's policy for increasing the use of natural gas, which necessarily involves drilling and hydraulically fracturing for that gas, it is also worth mentioning FERC's involvement in the 2011 *Prudent Development* report prepared by the National Petroleum Council ("NPC"), a federal advisory committee that reports to the Secretary of Energy. See NPC, *Prudent Development* (2011), available at <http://www.npc.org/reports/rd.html>. Commissioner Philip D. Moeller served on the Coordinating Subcommittee that participated in preparing *Prudent Development*. NPC, *Prudent Development*, App. B, p. B-6 (2011) (Attachment 8). In addition, two senior FERC officials served on relevant subgroups that participated in the preparation of *Prudent Development*. Jeff C. Wright, the Director of FERC's Office of Energy Projects, served on the Gas Infrastructure Subgroup of the Resource & Supply Task Group, *Id.* at B-20, and FERC's Senior Technical Advisor, C. Webster Gray, served on the Offshore Operations Subgroup of the Operations & Environment Task Group. *Id.* at B-23.

According to the *Prudent Development* report:

The 2007 NPC *Hard Truths* study described infrastructure as a *key link in the chain, connecting supply to markets*, and found that knowledge of existing infrastructure and planning for new infrastructure capacity could fall short of meeting market needs. *Sufficient natural gas midstream infrastructure, including gathering systems, processing plants, transmission pipelines, storage fields, and LNG terminals, is crucial for efficient delivery and functioning markets. Insufficient infrastructure can contribute to price volatility, delivery bottlenecks, stranded gas supplies, and reduced economic activity.*

This study has examined infrastructure for both natural gas and crude oil in North America and concluded that expansion and regional change in supply sources will require new infrastructure development over the next several decades, including more than 30,000 miles of long-distance natural gas pipelines and up to 600 Bcf of natural gas storage capacity, a scale of expansion that is consistent with historical rates of system growth.

Market signals have been effective in bringing about appropriate infrastructure expansions. *In particular, regulatory frameworks implemented by the Federal Energy Regulatory Commission (FERC) ... have supported expansion of natural gas storage and pipeline systems in recent years, and should facilitate prudent development of new infrastructure expansions in the future...*

CO20 – Allegheny Defense Project (cont'd)

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New infrastructure will be required to move natural gas from regions where production is expected to increase. Not all areas will require new gas pipeline infrastructure, but many (even those that have a large amount of existing pipeline capacity) may require new investment to connect new supplies to markets. In recent years, natural gas producers and marketers have been the principal shippers on these new "supply push" pipelines. These "anchor shippers" have been willing to commit to long-term, firm service contracts for natural gas transportation service that provide the financial basis for moving forward with these projects. Looking ahead, producers should continue to be motivated to ensure outlets for their gas supplies via pipelines. Abundant and geographically diverse shale gas contributes to a competitive natural gas market if connected to adequate storage and delivery systems.

A recent Interstate Natural Gas Association of America (INGAA) Foundation study on North American Midstream Infrastructure through 2035 found that the United States and Canada will require annual average midstream natural gas investment of \$8.2 billion per year, or \$205.2 billion (in real 2010 dollars) total, over the nearly 25-year period from 2011 to 2035 to accommodate new gas supplies, particularly from the prolific shale gas plays, and growing demand for gas in the power-generation sector. This capital investment requirement includes mainlines, laterals, processing, storage, compression, and gathering lines.

NPC, *Prudent Development*, pp. 51-52 (Attachment 9). This reveals several important things.

First, the report identifies natural gas infrastructure as a "key link in the chain, connecting supply to markets." Second, the report states that sufficient midstream infrastructure (gathering lines, processing plants, transmission pipelines, storage fields, and LNG terminals) is "crucial for efficient delivery and functioning markets." Third, the report expressly states that FERC's "regulatory framework" has "supported expansion of natural gas storage and pipeline systems in recent years, and should facilitate prudent development of new infrastructure expansions in the future." Fourth, that infrastructure expansion "will be required to move natural gas from regions where production is expected to increase." This would obviously include the Marcellus shale formation. Indeed, as the report states:

A major build-out of interstate pipeline capacity in the mid-Atlantic and northeast will be needed to transport gas from the Marcellus basin to markets. In fact, 201 miles of interstate pipeline to transport Marcellus shale basin gas are under construction, 449 miles are pending, and almost 1,000 miles of potential projects have been announced...Future pipeline infrastructure expansion will be driven by a shift in production from mature basins to areas of unconventional (i.e., shale) natural gas production. Regions with unconventional production growth, such as the Marcellus basin in the Appalachian region of the northeast U.S., will experience the greatest infrastructure investment.

NPC, *Prudent Development*, p. 162 (emphasis added).

FERC is fully aware of the fact that there is an existing comprehensive overhaul of the nation's natural gas infrastructure in response to the extraction of natural gas from "prolific shale gas plays," including the Marcellus basin. Algonquin's AIM Project and Atlantic Bridge Project (among others) are part of that overhaul. As Algonquin stated in its open season for the AIM Project:

The Northeast and New England gas supply dynamics are shifting, with a decline in traditional Canadian imports and a dramatic increase in Appalachian gas, including the Marcellus shale play.

Spectra Energy, AIM Project Application, App. Z-1, Open Season Notice for Firm Service (Dec. 13, 2010 – Feb. 11, 2011). Moreover, Algonquin's open season for the Atlantic Bridge Project stated that:

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CO20 – Allegheny Defense Project (cont'd)

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Natural gas demand in the New England States and the Maritime Provinces is growing....Natural gas production in the Marcellus and Utica regions is currently at approximately 14 Bcf/d, and Algonquin is well connected to this supply through approximately 3 Bcf/d of existing pipeline interconnections on pipelines with a capacity in excess of 10 Bcf/d. Algonquin and Maritimes are uniquely positioned to deliver these supplies of natural gas to end use markets through their extensive existing city gate footprint and connections to a significant percentage of the ISO New England (ISO-NE) power generation fleet. The Atlantic Bridge Project would provide greater access for these abundant supplies from regional production to flow into the New England States and Maritime Provinces.

Spectra Energy, Atlantic Bridge Project, Open Season Notice, p. 1 (Attachment 10). FERC cannot turn a blind eye toward the cumulative impacts of natural gas drilling when infrastructure projects, such as the AIM and Atlantic Bridge Project, are the “key link in the chain, connecting supply to markets.” FERC’s official policy is to “foster” the “approval” of natural gas infrastructure projects. This underscores the need for FERC to carefully analyze and disclose to the public the cumulative impacts of natural gas drilling that is related to those infrastructure projects.

FERC and the gas industry are telling Pennsylvania and other states with unconventional shale gas basins that they have to bear an increasing and long-term burden to supply the nation and, indeed, other nations with natural gas. FERC has a duty to take a hard look at the environmental consequences of gas drilling that will be felt by the people who live and recreate where these shale gas formations are. As the Pennsylvania Supreme Court recently stated:

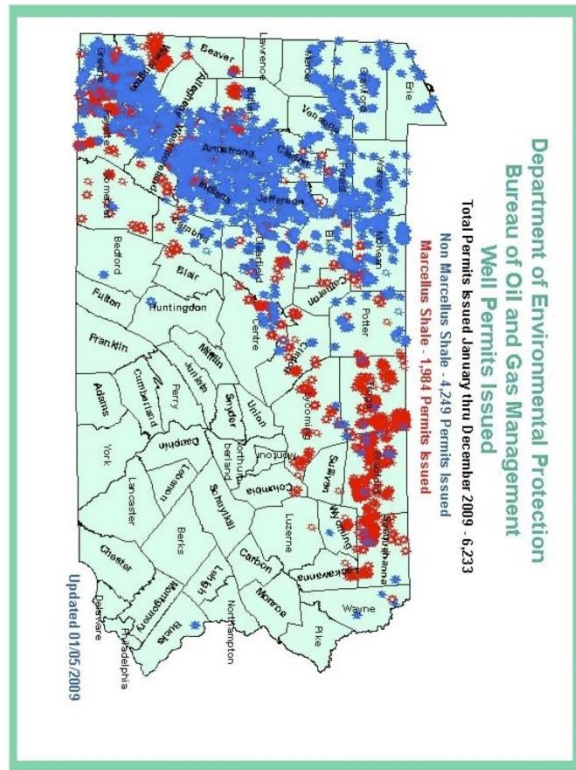
By any responsible account, the exploitation of the Marcellus Shale Formation will produce a detrimental effect on the environment, on the people, their children, and future generations, and potentially on the public purse, perhaps rivaling the environmental effects of coal extraction.

Robinson Township v. Commonwealth of Pennsylvania, 83 A.3d 901, 976 (Pa. 2013). FERC claims in its Strategic Plan that it seeks to foster the “responsible” development of natural gas infrastructure. Part of that responsibility is to take into account the environmental and human health effects of natural gas drilling that is directly tied to the gas infrastructure projects under FERC’s jurisdiction. As the following maps from the Pennsylvania Department of Environmental Protection (“PADEP”) demonstrate, Pennsylvania has incurred substantial environmental impacts from shale gas drilling:

CO20 – Allegheny Defense Project (cont'd)

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Figure 4: Shale gas permits issued in Pennsylvania (2009).

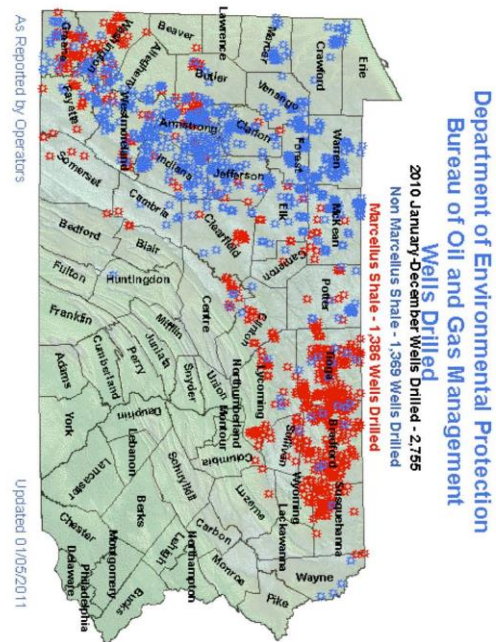


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Figure 5: Shale gas wells drilled in Pennsylvania (2010).

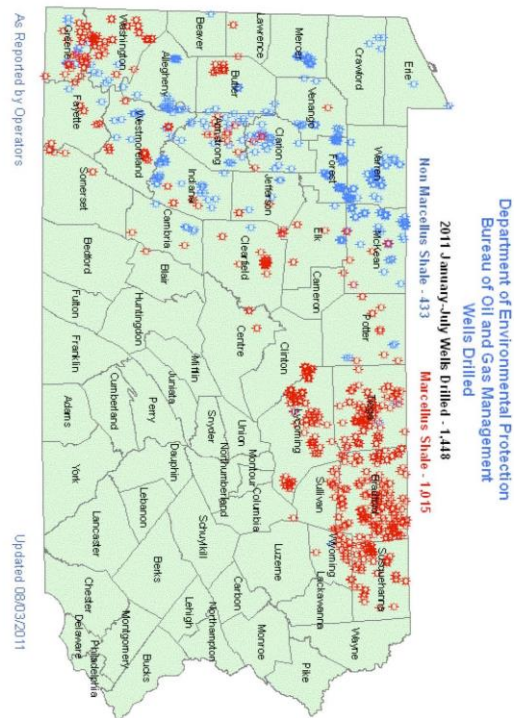
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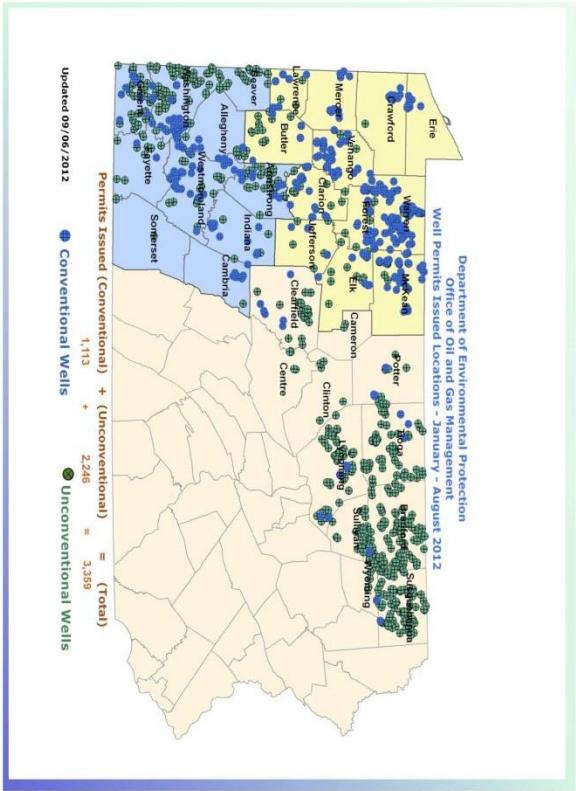
Figure 6: Shale gas wells drilled in Pennsylvania (Jan. – July, 2011).



CO20 – Allegheny Defense Project (cont'd)

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Figure 7: Shale gas permits issued in Pennsylvania (Jan. – Aug., 2012).



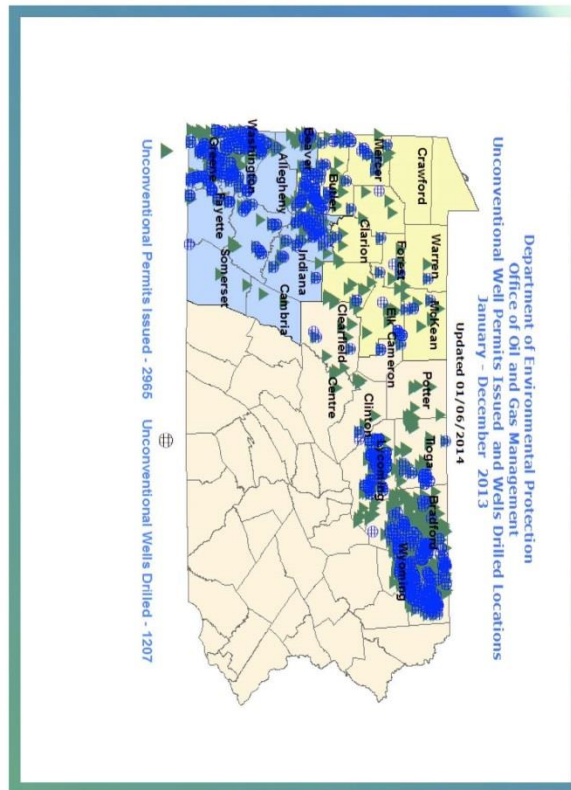
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Figure 8: Shale gas permits issued and wells drilled in Pennsylvania (2013).



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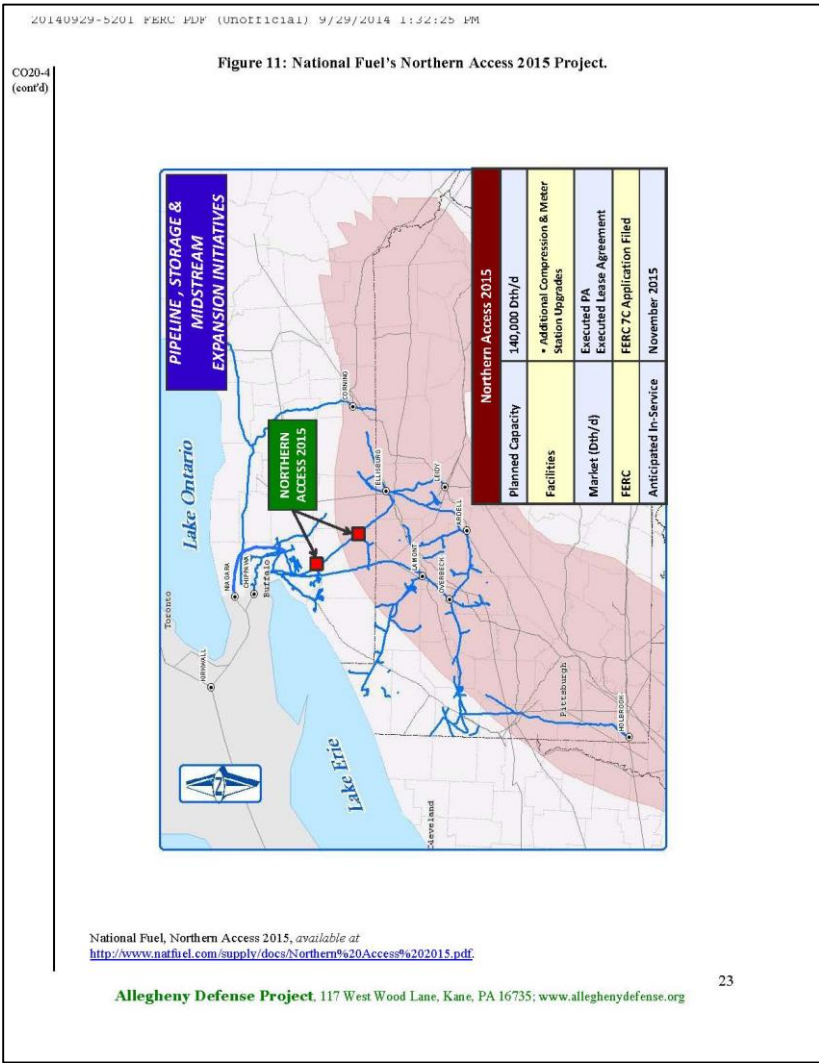
As these maps show, thousands of natural gas wells have been drilled in Pennsylvania over the last several years. Many of these wells have been drilled on public lands that our organization seeks to protect, including the Allegheny National Forest and Pennsylvania State Forests. The following maps show other infrastructure projects that are under FERC's jurisdiction and are directly tied to natural gas drilling in the Marcellus and/or Utica shale formations:

Figure 9: Tennessee's Niagara Expansion Project.



Kinder Morgan, Niagara Expansion Project, Resource Report 1, Figures (Docket No. CP14-88; Accession No. 20140221-5027).

CO20 – Allegheny Defense Project (cont'd)

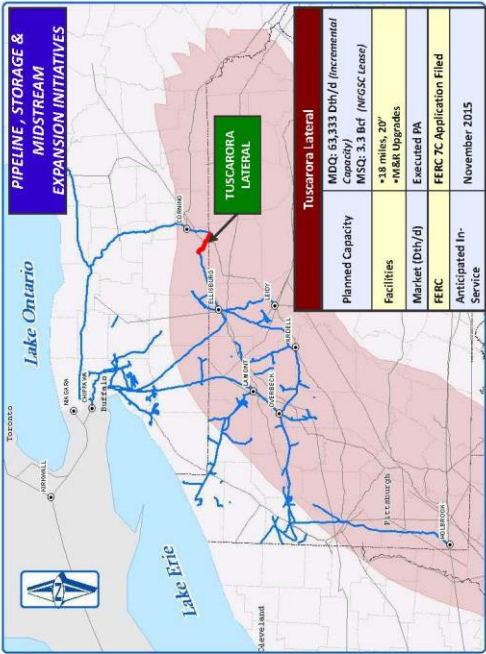


CO20 – Allegheny Defense Project (cont'd)

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Figure 12: National Fuel's Tuscarora Lateral Project.



National Fuel, Tuscarora Lateral, available at http://www.natfuel.com/empire/docs/TL_2013.pdf.

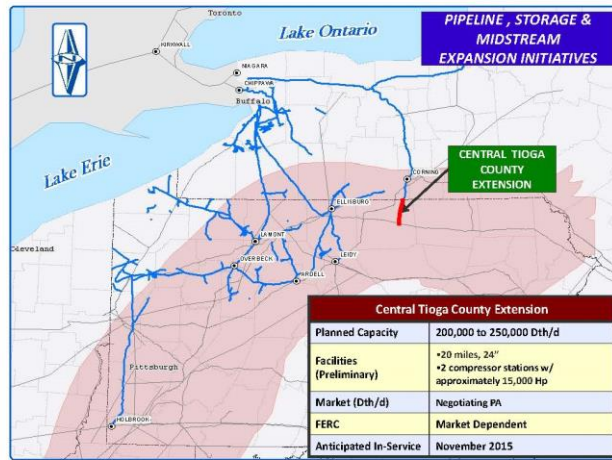
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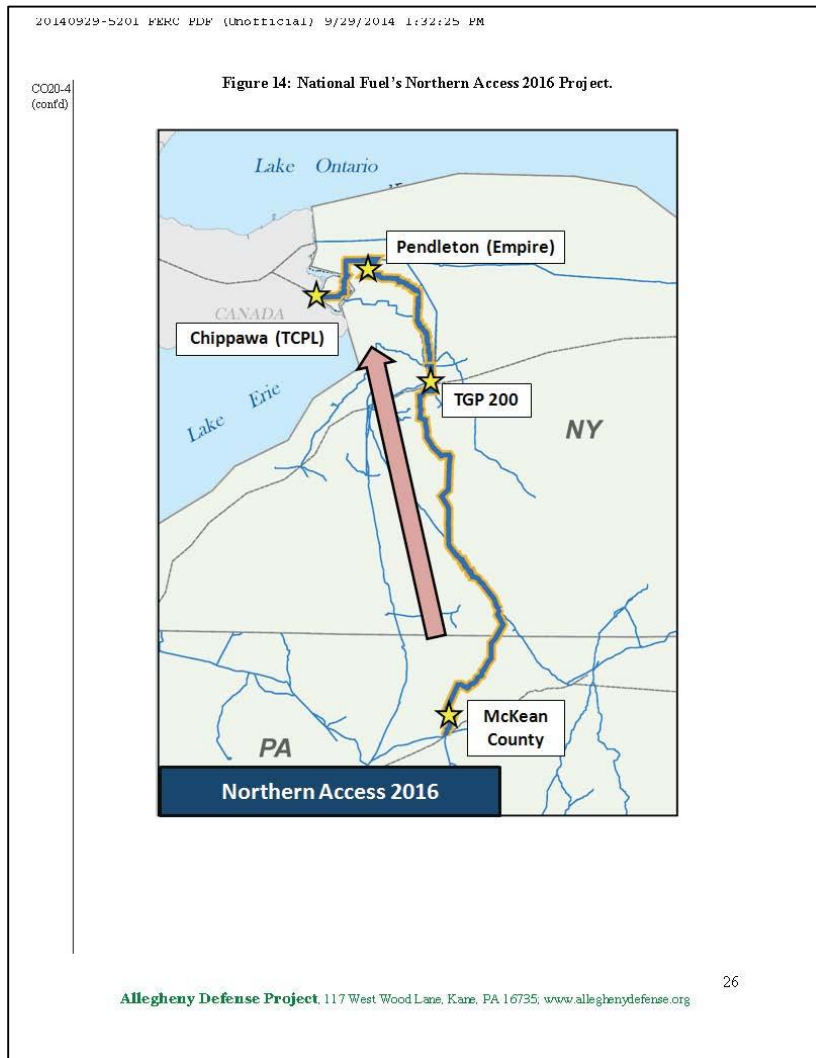
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Figure 13: National Fuel's Central Tioga County Extension Project.



National Fuel, Central Tioga County Extension, available at http://www.natfuel.com/empire/docs/Tioga_2013.pdf.

CO20 – Allegheny Defense Project (cont'd)

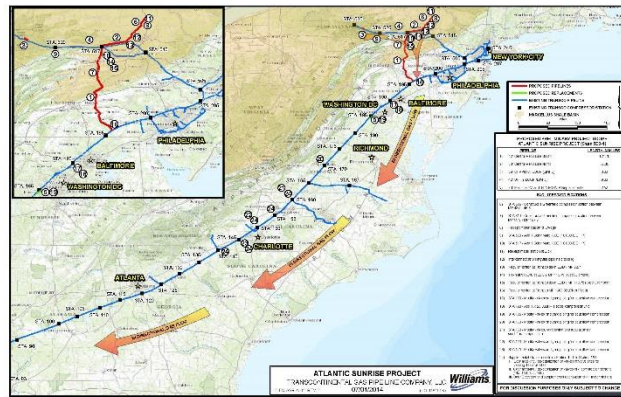


CO20 – Allegheny Defense Project (cont'd)

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Figure 15: Transco's Atlantic Sunrise Project.



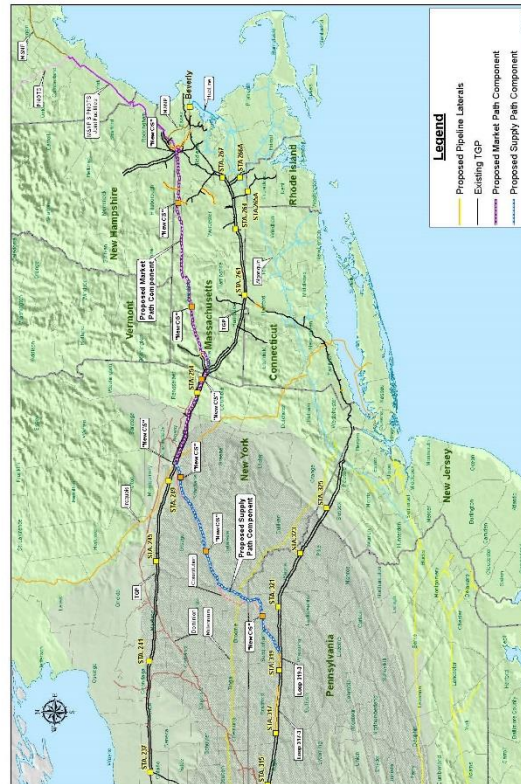
Williams, Atlantic Sunrise Project, available at <http://atlanticsunrise.com/wp-content/uploads/2014/07/AT-SR-A-02RevB.pdf>

CO20 – Allegheny Defense Project (cont'd)

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Figure 16: Tennessee's Northeast Energy Direct.



Kinder Morgan, Northeast Energy Direct (NED) Project Location Map, available at http://www.kindermorgan.com/business/gas_pipelines/east/neenergydirect/projectmap.pdf.

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CO20 – Allegheny Defense Project (cont'd)

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Figure 17: Dominion's New Market Project.



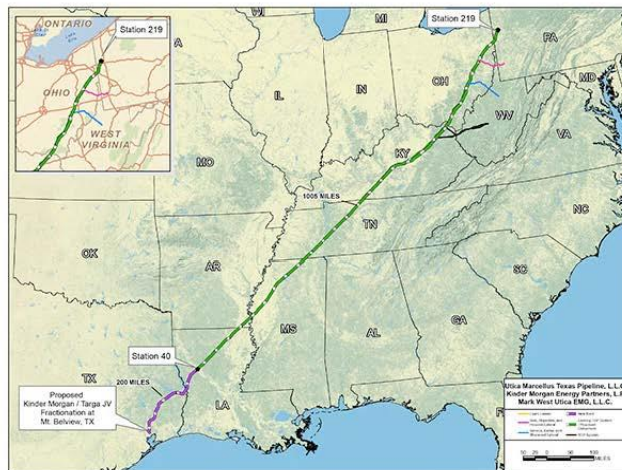
Dominion, New Market Project, Resource Report I, App. I-A (Docket No. CP14-497, Accession No. 20140602-5238).

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Figure 18: Tennessee's Utica Marcellus Texas Pipeline Project.



Kinder Morgan, Utica Marcellus Texas Pipeline Open Season, available at http://www.kindermorgan.com/projects/utg_rade/.

These maps reveal why FERC's notion that it only needs to consider natural gas drilling as a cumulative impact if it falls within a certain zone of influence is arbitrary. For example, National Fuel's Central Tioga County Extension Project (Figure 13) involves construction of 20 miles of 24-inch-diameter pipeline in Tioga County, Pennsylvania where there has been extensive natural gas drilling (see Figures 4-8). On the other hand, Tennessee's Utica Marcellus Texas Pipeline Project (Figure 18) would

involve converting approximately 1,005 miles of Kinder Morgan's 24- and 26-inch Tennessee Gas Pipeline system, currently in natural gas service to [natural gas liquids] service, extending from Mercer, Pennsylvania to Natchitoches, Louisiana and the construction of approximately 200 miles of new pipeline, including a 22 mile lateral from Harrison County, Ohio, to extend the Y-Grade Pipeline from Natchitoches, Louisiana to a proposed Kinder Morgan joint venture fractionation facility with Targa which has existing facilities at Mont Belvieu, Texas.

Id. Although both projects are targeting Marcellus and/or Utica shale gas, under FERC's view of cumulative impacts it would likely only consider the cumulative impacts of natural gas drilling in the Central Tioga County Extension Project since that proposed pipeline is located where natural gas drilling is occurring. This is a flawed standard, however, since the Utica Marcellus Texas Pipeline Project has no less of a connection to natural gas drilling in the same shale formations as

Allegheny Defense Project 117 West Wood Lane, Kane, PA 16735, www.alleghenydefense.org

CO20 – Allegheny Defense Project (cont'd)

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CO20-
(cont'd)

the Central Tioga County Extension Project. There is no rational reason to consider the cumulative impacts of gas drilling in one project but not the other when both projects are directly linked to gas drilling in the same shale formations. Just because the construction activities associated with the Utica Marcellus Texas Pipeline Project would occur farther away from where the gas is being produced does not make that gas production any less of a cumulative impact “on the environment.” 40 C.F.R. § 1508.7.

This is supported by the Ninth Circuit’s decision in *Northern Plains Resource Council v. Surface Transportation Board*. In that case, the Surface Transportation Board (“Board”) approved the construction of a railroad that would be used to haul coal from Wyoming’s Powder River Basin. Northern Plains Resource Council (“NPRC”) challenged the Board’s decision in part because of the Board’s failure to consider the “combined impacts of future coal bed methane (CBM) well development and coal mining projects that will also coming into being in Southeastern Montana.” 668 F.3d 1067, 1077 (9th Cir. 2011) *reh’g denied* (Feb. 23, 2012). NPRC also contended that the Board failed to “account for the combined effects of the referenced projects and the likely effects on air quality, wildlife, and water quality of the proposed construction and operation of the TRRC railroad.” *Id.*

For its part, the Board contended that coal mining in certain areas “was not reasonably foreseeable.” *Id.* at 1081. The Board further claimed that it was “too speculative to determine the effects from [coal bed methane] wells that are not already approved.” *Id.* at 1078. The court rejected both arguments.

First, regarding the coal mines, the court found that the Board was generally aware of where future mining would occur and “[e]ven more significantly, the Board relied on the coal mine development ... to justify the financial soundness of the proposal[.]” *Id.* at 1082. The same holds true here. Algonquin expressly stated in the open season for the AIM Project that the purpose of the Project is “to deliver natural gas from both existing supply sources and the emerging Marcellus shale gas to premium Northeast and New England markets.” Spectra Energy, AIM Project Application, App. Z-1, Open Season Notice for Firm Service (Dec. 13, 2010 – Feb. 11, 2011). The open season notice further stated that “Northeast and New England gas supply dynamics are shifting, with a decline in traditional Canadian imports and a dramatic increase in Appalachian gas, including the Marcellus shale play.” *Id.* The open season notice further included a map with a large yellow arrow indicating natural gas coming out of the “Marcellus Supply” and into Algonquin’s system. *Id.* Thus, Algonquin is generally aware that natural gas that will come into its system should the Project be approved will be sourced from “the emerging Marcellus shale.”

Moreover, Algonquin is relying on gas production in the Marcellus shale to “justify the financial soundness of the proposal.” For example, Algonquin states that:

The AIM Project will provide much needed pipeline capacity to meet the Project Shippers’ immediate and future needs for natural gas....The AIM Project will utilize a strategic receipt point located at Ramapo, New York, to obtain additional access to growing supply areas, thereby providing the Project Shippers with additional economical supplies of natural gas....As a result of the open seasons, Algonquin has executed precedent agreements with the Project Shippers for firm transportation service to deliver new, critically needed natural gas supplies to the Northeast....These Project Shippers’ commitments provide the economic underpinning for Algonquin to proceed with the Project.

Spectra Energy, AIM Project Application, pp. 6-7 (emphasis added; citations omitted). Note that Algonquin expressly states that it “will utilize a strategic receipt point located at Ramapo, New

Allegheny Defense Project, 117 West Wood Lane, Kane, PA 16735; www.alleghenydefense.org

CO20 – Allegheny Defense Project (cont'd)

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CO20-4
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York, to obtain additional access to growing supply areas.” As Algonquin stated in its open season, that growing supply area is the Marcellus shale. Indeed, that is what makes the receipt point at Ramapo strategic. This is further supported by the map in the open season notice that shows the “Marcellus Supply” arrow going to Ramapo. Spectra Energy, AIM Project Application, App. Z-1, Open Season Notice for Firm Service (Dec. 13, 2010 – Feb. 11, 2011). Thus, Algonquin is relying on Marcellus shale gas production to “justify the financial soundness of the proposal.” FERC, therefore, has an obligation to consider the cumulative impacts of gas production in the Marcellus shale.

The court in *Northern Plains* also rejected the Board’s contention that the development of coal bed methane wells was too “speculative.” The court noted that “in order to reach its no cumulative impacts conclusion, the Board limited its analysis to projects that would be constructed within a five-year period.” 668 F.3d at 1077. The court, however, pointed to other state and federal agency documents that “project[ed] a significant growth of CBM wells over the next 20 years.” *Id.* at 1078. The court further stated that:

...projects need not be finalized before they are reasonably foreseeable. “NEPA requires that an EIS engage in reasonable forecasting. Because speculation is ... implicit in NEPA, [i] we must reject any attempt by agencies to shirk their responsibilities under NEPA by labeling any and all discussion of future environmental effects as crystal ball inquiry.” *Selkirk*, 336 F.3d at 962 (internal quotation marks and citations omitted). As the [EPA] also has noted, “reasonably foreseeable future actions need to be considered even if they are not specific proposals.” EPA, Consideration of Cumulative Impact Analysis in EPA Review of NEPA Documents, Office of Federal Activities, 12-13 (May 1999), available at <http://www.epa.gov/compliance/resources/policies/nepa/cumulative.pdf>.

Id. at 1078-79 (emphasis added). See also *Delaware Riverkeeper Network v. Federal Energy Regulatory Commission*, Case No. 13-1015, p. 8 (D.C. Cir. 2014) (stating that “reasonable forecasting and speculation is ... implicit in NEPA” and that FERC must fulfill its duties to the “fullest extent possible.”); *Sierra Club v. U.S. Forest Service*, 857 F.Supp.2d 1167, 1177 (D. Utah 2012) (“speculation is implicit in, not precluded by, NEPA.”); *Ctr for Biological Diversity v. Bureau of Land Mgmt.*, 937 F.Supp.2d 1140, 1157 (E.D. Cal., 2013) (noting that reasonable forecasting and speculation is implicit in NEPA and that “it was unreasonable for BLM not to at least consider reasonable projections of drilling in the area that include fracking operations.”). Therefore, because “speculation is implicit in NEPA,” FERC has an obligation to consider the cumulative impacts of reasonably foreseeable natural gas extraction.⁷

The U.S. Forest Service has demonstrated that analyzing the reasonably foreseeable impacts of oil and gas extraction is not the burdensome task that FERC makes it out to be. For example, in 2007, the Forest Service published a revised Land and Resource Management Plan (Forest Plan) for the Allegheny National Forest in northwestern Pennsylvania. The FEIS for the Forest Plan looked at the cumulative impacts of future oil and gas extraction in the forest:

Using the 20-year average during the 1986 Forest Plan period, 225 wells were drilled on the forest each fiscal year. This equates to approximately 293 acres of ground disturbance annually (68 acres for the construction of well pads and 225 acres cleared for road construction). [Oil, gas, and mineral] development has occurred throughout the forest, and recent increased development in the Hastings and Salmon Creek areas is outside known historic oilfields.

⁷ It should also be noted that, unlike FERC’s stated goal to “foster” natural gas infrastructure projects to ensure natural gas is transported from supply areas to market areas, the Board in *Northern Plains* had no particular interest in coal or coal bed methane. Regardless, the Ninth Circuit held that the Board must consider the cumulative impacts of coal mining and coal bed methane extraction.

CO20 – Allegheny Defense Project (cont'd)

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CO20-4
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Projecting from the average stated above, about 56 miles of new OGM road construction could be expected per year. There are approximately 1,250 miles of OGM roads on the ANF.

If the oil and gas market remains strong, it is possible that development may increase beyond that projected by historic averages. A high-quarter scenario of 800 wells drilled per year is possible. This equates to approximately 240 acres of ground disturbance for the construction of well pads and 200 new miles (800 acres) of OGM roads.

Extrapolating this information to year 2020 results in an estimated 3,375 new wells using the historic trend approach, or 12,000 new wells using the high-quarter scenario (see Table F-3).

U.S. Forest Service, Allegheny National Forest Land and Resource Management Plan, Final Environmental Impact Statement, App. F-8 (2007) (*available at* <http://www.fs.usda.gov/main/allegheny/landmanagement/planning>) (Attachment 11). The FEIS displayed in a table both the “existing wells” in the forest as well as “additional wells” expected by 2020 under the “historic trend” of 225 new wells/year, a “high-quarter” scenario of 800 new wells/year, and the “average future projection” of 512 new wells/year. *Id.* at F-9. The table also included estimates for new roads and the additional acres of forest that would have to be cleared for oil and gas infrastructure. *Id.* FERC is clearly capable of performing a similar analysis of projected natural gas extraction in supply areas such as the Marcellus shale.⁸

The Nature Conservancy, in cooperation with Western Pennsylvania Conservancy and Audubon Pennsylvania, recently published a report regarding projections of Marcellus shale gas extraction and pipeline construction. The Nature Conservancy, Marcellus Gas Well & Pipeline Projections, *available at* <http://extension.psu.edu/natural-resources/forests/private/training-and-workshops/2012-goddard-forum-oil-and-gas-impacts-on-forest-ecosystems/marcellus-gas-well-and-pipeline-projections> (Attachment 12). The report assessed the “spatial footprint of existing energy development,” projected how much energy infrastructure might be developed by 2030 (and where such development was likely to occur), and the impacts of that development on natural habitats. *Id.* at p. 7. The results of this assessment are startling.

First, the report estimated that an average of 3.1 acres of forest are cleared for each Marcellus shale well pad and 5.7 acres of forest are cleared for associated roads, pipelines, containment pits and other infrastructure for a total of 8.8 acres of forest cleared per Marcellus well pad. *Id.* at 9. The report further indicated that for each Marcellus well pad, an additional 21.2 acres are indirectly impacted from new edge. *Id.* Thus, the average Marcellus well pad directly and indirectly impacts approximately 30 acres. *Id.*

Next, the report states that it considers Marcellus shale development over a 20-year time frame (similar to what the Ninth Circuit said had to be considered in *Northern Plains*). *Id.* at 10. The report then estimates that 60,000 new wells could be drilled by 2030. *Id.* at 11. The report then performs a spatial analysis to reveal what 60,000 new wells would look like under various “wells per pad” scenarios. *Id.* at 13.

Next, the report modeled the relationship between existing and permitted wells from available Pennsylvania Department of Environmental Protection data and spatial variables related to geology

⁸ It is worth pointing out that in both the Allegheny National Forest example cited here and from *Northern Plains Resource Council*, these agencies looked out years into the future. Even the Board in *Northern Plains Resource Council* looked at the potential for mining five years into the future. The Ninth Circuit, however, said that was insufficient to satisfy NEPA because there was information available that “project[ed] a significant growth of CBM wells over the next 20 years.”

CO20 – Allegheny Defense Project (cont'd)

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CO20-1
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and infrastructure to project where future development is likely to occur. *Id.* at 14-20. The report then projects that by 2030, there could be 10,000 – 25,000 miles of new gathering pipelines in Pennsylvania, resulting in the clearing of 60,000 – 150,000 acres of forest and 300,000 – 900,000 acres of indirect edge effects. *Id.* at 21. Importantly, the report states that pipeline mileage in Pennsylvania “will at least double and possibly even quadruple by 2030” and that the “pipeline footprint alone is larger than the cumulative area impacted by all other Marcellus gas infrastructure combined.” *Id.* at 22.

This is the kind of information that is critical to understanding the environmental consequences of projects such as the AIM Project. Indeed, CEQ regulations require FERC to ensure that “environmental information is available to public officials and citizens before decisions are made and before actions are taken.” 40 C.F.R. § 1500.1(b). Without such information, neither FERC nor the public has what is necessary for “understanding [the] environmental consequences” of the proposed action. *Id.* at § 1500.1(e).

V. FERC cannot make a decision regarding the public convenience and necessity of the AIM Project without considering the cumulative effects of natural gas drilling.

The Natural Gas Act of 1938 authorizes FERC to regulate the interstate transportation and sale of natural gas. 15 U.S.C. §§ 717 – 717z. When deciding whether or not to issue a certificate, FERC examines the environmental impact, other alternatives, technical competence, financing, rates, market demand, gas supply, long-term feasibility, and other issues concerning a proposed project that are relevant to the public interest. Certification of New Interstate Natural Gas Pipeline Facilities, Statement of Policy, 88 FERC ¶ 61,227, Docket No. PL99-3-00 (Sept. 15, 1999) at 22-23, 27, *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement); *see generally* *Permian Basin Area Rate Cases*, 390 U.S. 747, 791 (1967). One of the goals of the Certificate Policy Statement is “the avoidance of unnecessary disruption of the environment.” *Id.* at 2.

As described above, there are substantial and long-lasting cumulative effects from the exploitation of shale gas that FERC must take into account, not only for purposes of NEPA, but also for purposes of determining whether the AIM Project is in the public convenience and necessity. Only by carefully examining these impacts can FERC make a rational decision as to whether authorization of the AIM Project avoids “unnecessary disruption of the environment.” FERC, however, has not considered these cumulative effects at all in this analysis. Therefore, it cannot make a determination whether the AIM Project is in the public convenience and necessity. We believe that consideration of these cumulative effects, in addition to the direct and indirect effects of the AIM Project, can only lead to the conclusion that Algonquin’s application for a Certificate should be denied.

Thanks you for the opportunity to comment.

Dated: September 29, 2014

Respectfully submitted,

/s/ Ryan Talbott

Ryan Talbott
Executive Director
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117 West Wood Lane
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CO20 – Allegheny Defense Project (cont'd)

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CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of FERC's Rules of Practice and Procedure, 18 C.F.R. § 385.2010, I, Ryan Talbott, hereby certify that I have this day served the foregoing document upon each person designated on this official list compiled by the Secretary in this proceeding.

Dated: September 29, 2014

Respectfully submitted,

/s/ Ryan Talbott

Ryan Talbott
Executive Director
Allegheny Defense Project
117 West Wood Lane
Kane, PA 16735
rtalbott@alleghenydefense.org

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CO20 – Allegheny Defense Project (cont'd)

The attachments to this letter are too voluminous to include in this EIS. They are available for viewing on the FERC website at <http://www.ferc.gov>. Using the "eLibrary" link, select "General Search" from the eLibrary menu, enter the selected date range and "Docket No." excluding the last three digits (i.e., CP14-96-000), and follow the instructions. For assistance please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at 1-866-208-3676, or for TTY, contact 202-502-8659. The Category/Accession number for this submittal is 20140929-5201.

**CO21 – Community Watersheds Clean Water Coalition, James
Bryan Bacon**

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C-TB *9/9/14*

Algonquin Gas Transmission, LLC
1490 Highland Avenue, Bldg. #4
Cheshire, CT 06410

866-873-2579 toll free
203-439-9370 fax

Spectra Energy
Partners

SEP - 9 2014
OFFICE OF THE SECRETARY
U.S. DEPARTMENT OF ENERGY

September 3, 2014

Town of Somers
335 Route 202
Somers, NY 10589

Re: Algonquin Gas Transmission, LLC Proposed Atlantic Bridge Expansion Project
Map(s): 5.14 Block(s): 1 Lot(s): 1, 6 & 7
Section: Stony Point Discharge

Dear Town of Somers:

Algonquin Gas Transmission, LLC ("Algonquin") is an interstate natural gas transmission company that has maintained and safely operated its interstate pipeline system in New Jersey, New York, Connecticut and Rhode Island and Massachusetts since 1953. The purpose of this letter is to inform you that Algonquin is currently evaluating proposals to modify its existing interstate natural gas pipeline system in your area to meet the growing market demand for increased energy. This proposed expansion, which we refer to as the "Atlantic Bridge Project", will be necessary to provide increased abundant natural gas supplies and enhanced system reliability to potential natural gas customers along Algonquin's existing pipeline footprint in the Northeast. You are receiving this letter as an owner of property that may be involved with the proposed expansion of Algonquin's facilities or otherwise in the general area Algonquin is considering for its proposed work. We refer to these areas as the "study corridor" at this early stage of development.

The proposed facility modifications will generally consist of replacing sections of existing pipeline with new larger diameter pipeline ("lift and relay"), installing pipeline adjacent to sections of existing pipeline ("pipeline loop"), increasing compression at existing compressor stations and modifying a number of existing meter stations to provide for increased deliveries. A map has been included identifying the general locations of the facilities preliminarily proposed and the work areas along Algonquin's system that we are evaluating for expansion.

Algonquin is a wholly-owned subsidiary of Spectra Energy Partners, LP and maintains and operates interstate natural gas transmission pipelines under the exclusive jurisdiction of the Federal Energy Regulatory Commission pursuant to the Natural Gas Act (15 U.S.C. §§ 717-717w). Algonquin's principal place of business is 5400 Westheimer Court, Houston, Texas 77056.

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TOWN OF SOMERS
PAGE 01/07

**CO21 – Community Watersheds Clean Water Coalition, James
Bryan Bacon (cont'd)**

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Page 2

Project representatives will need to begin collecting and evaluating field information necessary to determine the preferred locations for the proposed facility expansions that will have the least amount of impact while balancing constructability concerns. The collection of field data will occur along the study corridor for those areas within and adjacent to Algonquin's existing pipeline easements, and at its existing compressor and meter stations. The engineering, environmental and cultural resource data collected will be used to determine the resource impacts of the proposed facilities.

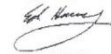
Soon, Algonquin representatives will be performing the engineering, and environmental and cultural resource survey activities on its existing rights-of-way in the areas of proposed expansion. These activities will be performed in a minimal amount of time and should not result in any inconvenience to the landowners. Please be assured that no field work or surveys will be performed outside of Algonquin's existing rights-of-way area or fee properties without the appropriate landowner permission.

In a separate letter to follow, Algonquin will also be requesting your permission to access your property outside the existing Algonquin rights-of-way for the necessary survey work to evaluate the extent of any environmental and cultural resources within the entire project study corridor. That forthcoming communication will include a specific description of the various survey activities and the timing involved for each activity along with a written permission form for your consideration.

Algonquin encourages your cooperation and would like to assure you of the multiple upcoming opportunities for discussion to address any questions that you may have concerning these activities related to the development of the Atlantic Bridge Project. We intend to keep you informed of ongoing activities as this project proposal develops.

At this time no further action is required on your part. However, if you would like to discuss or obtain additional information concerning the proposed Atlantic Bridge Project, please call Algonquin toll-free at 866-873-2579. We will be happy to answer your questions during this early project development phase.

Very truly yours,



Edward C. Harney
Right of Way Project Manager
Engineering & Construction

PAGE 02/07

TO: JAMES BACON

DATE: 09/29/2014 11:34 AM

**CO21 – Community Watersheds Clean Water Coalition, James
Bryan Bacon (cont'd)**

20140929-5204 PERC PDF (Unofficial) 9/15/14 1:44:46 PM

Algonquin Gas Transmission, LLC
1490 Highland Avenue, Bldg. #4
Cheshire, CT 06410

866-873-2579 toll free
203-439-9370 fax

September 6, 2014

Town of Somers
335 Route 202
Somers, NY 10589

Spectra Energy
Partners

RE: Algonquin Gas Transmission, LLC, a Spectra Energy Company
Proposed Atlantic Bridge Expansion Project
Map(s): 5.15 Block(s): 2 Lot(s): 51
Section: Stony Point Discharge

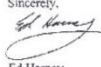
Dear Town of Somers:

Algonquin Gas Transmission, LLC ("Algonquin") will be holding Landowner Informational Meetings in your area for its proposed Atlantic Bridge Expansion Project ("AB Project").

During the informational meeting, Algonquin representatives will be available to answer your questions on land acquisition, environmental and permitting processes, construction, operation and other aspects of the AB Project. We encourage you to attend the meeting to learn about the Project, review mapping, displays, collect information about the Project and Algonquin, and informally ask any questions that you may have. Since there will be no formal presentation you may come anytime as listed below.

<p>Monday, September 29, 2014 5:30 PM – 7:30 PM American Legion Hall 235 Veterans Road Yorktown Heights, NY 10598</p>	<p>Tuesday, September 30, 2014 5:30 PM – 7:30 PM Crews Plaza 3 Executive Blvd. Suffern, NY 10901</p>
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If you have any questions or need additional information, please feel free to contact me toll free at the Cheshire, Connecticut field office at 866-873-2579.

Sincerely,

Ed Harney
Right of Way Project Manager
Engineering & Construction

09/24/2014 11:34 9142775860 TOWN OF SOMERS PAGE 04/07

**CO21 – Community Watersheds Clean Water Coalition, James
Bryan Bacon (cont'd)**

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JAMES BRYAN BACON, ESQ., P.C.
Attorney and Counselor at Law
P.O. Box 575
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(845) 419-2338

September 29, 2014

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Jodi M. McDonald, Chief Regulatory Officer
Army Corps of Engineers
Jacob Javits Building
26 Federal Plaza
New York, NY 10278

*CWCWC Comments on the Draft Environmental Impact Statement
Algonquin Gas Transmission, LLC; FERC Docket No. CP14-96-000; and*

*Application for 401 Water Quality Certification;
Army Corps of Engineers Public Notice Number NAN-2014-00402-EYA*

Dear Meses. Bose and McDonald,

I represent the Community Watersheds Clean Water Coalition, Inc. (CWCWC) and submit the following comments on the Draft Environmental Impact Statement (DEIS)¹ prepared by the Federal Energy Regulatory Commission (FERC) pursuant to the National Environmental Policy Act (NEPA) concerning the proposed pipeline expansion (project) by Algonquin Gas Transmission, LLC (Algonquin).

These comments are also directed to the Army Corps of Engineers (ACOE) in relation to Algonquin's application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344).

¹ Application of Algonquin Gas Transmission, LLC for a Certificate of Public Convenience and Necessity authorizing the expansion of the AIM Pipeline under CP14-96.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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CO21-1 | As set forth herein, the DEIS is insufficient in its disclosure of impacts to wetlands, endangered species, water quality and is deficient in addressing cumulative impacts and identifying practicable alternatives.

CWCWC is a not-for-profit corporation which includes 50 affiliated groups representing over 120,000 individuals. Over the last fifteen years, CWCWC has worked to protect and improve New York's surface and groundwater supplies through education and advocacy² with emphasis on rehabilitation of the Croton Watershed (Croton). Since 1840 the Croton has been a drinking water source for New York City and it continues to provide 10% of the water for 9 million New Yorkers, including approximately 1 million residents in Westchester County.

CWCWC submitted comments on the above FERC application on January 31, 2014 and by motion dated April 8, 2014 gained intervenor status and is therefore an official party in this proceeding. (See 18 CFR 385.214 and 18 CFR 157.10).

In preparing these comments, CWCWC retained Dr. Erik Kiviat,³ director of Hudsonia, Ltd., an endangered species expert and certified wetlands scientist. Dr. Kiviat examined the wetlands and rare flora and fauna between MP 10.0 and 12.3. CWCWC also retained the engineering services of Rahul Verma, P.E. former Executive Director for the East of Hudson Watershed Corporation (EOHWC), charged with identifying problem areas and installing, on behalf of 19 Croton municipalities, stormwater retrofits to reduce the amount of the pollutant phosphorus entering the reservoirs.

I. Project Components

Algonquin owns an approximate 50' wide right of way extending east from its compressor station in the Town of Stony Point in Rockland County approximately 29 miles to its compressor station in the Town of Southeast. Within that right of way Algonquin operates two pipelines, one 26' diameter and one 30

² CWCWC's mission statement states: "[t]he Coalition strives to protect and improve the waters of NYC's Croton Watershed as well as all New York State watersheds. We are an alliance of individuals and groups who believe that safe, clean and affordable drinking water is a basic human right."

³ Dr. Kiviat "has studied the plants and animals of the region for 40 years and has authored or co-authored 80 publications and 200 technical assistance reports on wetland ecology, rare species conservation, habitat ecology, introduced species, the Hudson River, and other subjects. Erik is the author of The Northern Shawangunks: An Ecological Survey; Hudson River East Bank Natural Areas; and Hackensack Meadowslands, New Jersey, Biodiversity: A Review and Synthesis. He is a Certified Wetland Scientist." See: <http://hudsonia.org/about/people/>.

CO21-1 See the response to comment FA4-1.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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inch diameter pipe through which it transports natural gas at a pressure of 672 psig.⁴ In order to deliver more natural gas to markets in New England and Canada, Algonquin proposes to replace its existing 26 inch diameter pipeline with a 42 inch diameter pipeline for a distance of 12.3 miles extending east from the Stony Point compressor station. Gas will be compressed within the new gas line by a single 15,000⁵ horsepower (hp) gas turbine⁶ replacing four existing compressor units which had less power (10,800 hp). At mile post (MP) 12.3 adjacent to Stoney Street in the Town of Yorktown, the new 42 inch line will dovetail into the existing 26 inch line. There, Algonquin proposes to construct and operate a “new launcher/receiver and pressure regulating facility.” DEIS 4-157.⁷

Algonquin plans to expand its right of way in certain areas to 75 feet in width and disturb a total of approximately 17,000 cubic yards of wetlands and hydric soils in New York. In the two miles of pipeline expansion planned in the Croton watershed (between MPs 10.0 and 12.3), Algonquin states 5.08 acres of wetlands will be excavated.⁸ And, specifically, in that 2.3 mile segment a total of 3,142.18 cubic yards of wetlands will be excavated along with 38.22 cubic yards of soils from stream crossings.⁹

CWCWC is principally concerned with the 10.0 to 12.3 MP segment of the project which impacts the water quality and flora and fauna within the Croton.

CO21-2 As discussed below, the DEIS is incomplete in several critical respects. The DEIS fails to comprehensively identify and disclose impacts to wetlands and identify and assess compliance with state water quality standards and New York's anti-degradation policy as implemented by the Clean Water Act (CWA).

⁴ PSI and PSIG-- Pounds per Square Inch, and Pounds per Square Inch Gauge. Both are units of measure to indicate the pressure on a surface. Technically, PSI starts at zero relative to a true vacuum. PSIG is the technically correct term to use when referring to a pressure gauge which has been calibrated to read zero at sea level. At sea level, the earth's atmosphere actually exerts a force of 14.7 psi on all surfaces. See for example: http://www.turnfast.com/refc_glossary/glossary/psig.

⁵ See for example: <https://mysolar.cat.com/cda/layout?m=35503>.

⁶ “The Mars 100 is the preferred unit model for the replacement because it would meet the horsepower requirements of the mainline system as well as the air emissions thresholds required in the existing air permits for the Stony Point Compressor Station.” DEIS 3-15.

⁷ DEIS Table 2.1.2-1 identifies this project component as “Install 42-inch receiver barrel and 26-inch launcher barrel and install mainline regulators and associated cross over piping.”

⁸ 401 Application to the ACOE at Table D-1.

⁹ See Algonquin's 6/3/14 response to the ACOE's data request.

CO21-2 See the responses to comments FA4-1, FA4-6, and SA4-15.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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CO21-3 Surveys for rare and endangered species are severely deficient having failed to identify multiple species in those categories. Further, there is no examination of
CO21-4 reasonable alternatives that avoid impacts to wetlands in the Croton (presumed to be available under the CWA). Finally, the DEIS provides only a cursory
CO21-5 explanation of another Algonquin proposal, the Atlantic Bridge expansion project which would more than double the project's impacts upon wetlands and water quality in the Croton with a cumulative replacement of 6.4 miles of pipeline within the Croton.

II. Wetlands

The Croton's wetlands are critical resources preventing and mitigating flooding impacts and serving as filters of pollutants such as phosphorus, while providing habitat to a multitude of flora and fauna.

The Environmental Protection Agency (EPA) recently issued proposed rules to clarify the definition of "waters of the United States" which detail the pivotal role wetlands play in maintaining water quality.¹⁰

¹⁰ Wetlands also act as sinks and transformers for pollutants, including excess nutrients, through such processes as denitrification, ammonia volatilization, microbial and plant biomass assimilation, sedimentation, sorption and precipitation, biological uptake, and long-term storage of plant detritus...

Specifically, wetlands reduce phosphorus, nitrate, and ammonium by large percentages...

Throughout the stream network, but especially in headwater streams and their adjacent wetlands, chemicals are sequestered, assimilated, transformed, or lost to the atmosphere by microbes, fungi, algae, and macrophytes present in riparian waters and soils...

These chemical processes reduce or eliminate pollution that would otherwise enter streams, rivers, lakes and other waters and subsequently downstream traditional navigable waters, interstate waters, or the territorial seas. The removal of the nutrients nitrogen and phosphorus is a particularly important role for riparian waters. Nutrients are necessary to support aquatic life, but the presence of excess nutrients can lead to eutrophication and the depletion of oxygen nearby waters and in waters far downstream.

The removal of nitrogen is an important function of all waters, including wetlands, in the riparian areas. Riparian areas regularly remove more than

CO21-3 Algonquin has completed surveys for multiple federally listed and state-listed species and submitted those results to the FWS and appropriate state agencies for review. See also the responses to comments SA10-6 through SA10-9, SA11-12 through SA11-16, LA26-21, and CO3-13.

CO21-4 We have reviewed the wetland areas that would be crossed in Croton and the potential impacts on these wetlands and we do not believe an alternative away from the existing pipeline right-of-way is warranted. Depending on the route selected, a deviation from the existing right-of-way could potentially reduce the acreage of wetland impacts, but it would also create a new pipeline corridor. Compared with the proposed route that would locate the pipeline within the same permanent right-of-way as the existing pipeline, and utilize the existing cleared right-of-way corridor for construction, a new corridor would increase both the temporary and permanent impacts of the Project, including impacts on new previously unaffected landowners, increased land disturbance, and increased tree and other vegetation clearing. Moreover, any deviation from the existing corridor would undoubtedly cross new wetlands and thus would result in new wetland impacts in areas where none previously existed.

CO21-5 See the response to comment FA3-5.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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CO21-6 | Despite proposing to excavate nearly 17,000 c/yds of wetlands, the DEIS contains no pollutant loading analysis. In the Croton, there is no recognition that the nutrients released as a result of the excavation of these hydric soils will impact water quality. There is no identification of the receiving waters' existing nutrient levels, pH, DO, temperatures or discussion of impacts to trout habitat. All that the DEIS and related ACOE filings indicate is that Algonquin plans to segregate the wetlands spoils in a pile and surround it with filter fabric. However, filter fabric does not remove dissolved phosphorus or nitrogen. (See herewith comments from

half of dissolved nitrogen found in surface and subsurface water by plant uptake and microbial transformation...

Denitrification in surface and subsurface flows is highest where there is high organic matter and/or anoxic conditions....

Denitrification occurs in wetland soils where there is high organic matter, low oxygen, denitrifying microbes, and saturated soil conditions, and rates increase with proximity to streams.

The vegetation associated with riparian waters also removes nitrogen from subsurface flows. Therefore, the conservation of riparian waters helps protect downstream waters from influxes of dissolved nitrogen. Phosphorus is another potentially harmful nutrient that is captured and processed in riparian waters.

Biogeochemical processes, sedimentation, and plant uptake account for high rates of removal of particulate phosphorus in riparian areas...

The amount of contact the water has with nearby soils determines the ability of the riparian area to remove phosphorus...

This function of upstream riparian waters is crucial for maintaining the chemical and biological integrity of the waters to which they are adjacent, and for preventing eutrophication in downstream traditional navigable waters, interstate waters, and the territorial seas.

Pollutants can be attenuated or retained in such adjacent waters through processes including denitrification, ammonia volatilization, microbial and plant biomass assimilation, sedimentation, sorption and precipitation reactions, biological uptake, and long-term storage in plant detritus...

Through retention and mitigation of pollutants and other chemical compounds, adjacent waters with a surface hydrologic connection to jurisdictional waters can substantially improve water quality downstream. Federal Register / Vol. 79, No. 76 / Monday, April 21, 2014 / Proposed Rules.

CO21-6

As indicated in section 4.4.3.1 of the EIS, soil that is excavated from a wetland would be temporarily stored along the right-of-way in spoil piles with the top 12 inches of topsoil segregated from the remaining soil. Sediment barriers would be in place to contain the spoil within the right-of-way and protect adjacent off right-of-way wetland and waterbody areas. Wetland soil would be backfilled and restored to its original location.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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CO21-6
(cont'd) Verma Engineering). The filter fabric is also highly prone to failure as demonstrated by the photographs included with Dr. Kiviat's report herewith.

Dr. Kiviat reviewed the Algonquin application and its wetlands maps and conducted a preliminary site investigation between MPs 10.0 and 12.3.

CO21-7 Significantly, Kiviat pin-pointed seven locations where wetlands were either under-delineated or not identified. (Hudsonia Report at page 3). Kiviat reports that the "wetland field data sheets in the delineation report (TRC 2014a)" fail to identify many sedges which are "important wetland indicator species" "despite the abundance and diversity of sedges on upland and wetland habitats of the ROW." Hudsonia Report pg. 3.

Kiviat also notes that "[t]he wetland field data sheets reproduced [by Algonquin's consultant] TRC (2014a) contain many misspelled plant names. The inaccuracies in spelling (which could have been corrected following field work) suggest there might also be incorrect plant identifications or other errors."

Consequently, the Hudsonia report recommends:

The entire ROW should be re-checked for small wetlands. All wetlands on the ROW should be delineated (and prior delineations checked) and assessed by an independent wetland scientist, and the federal status of all wetlands determined or re-determined. It is the responsibility of the applicant (AIM) to accurately address the federal jurisdictional status of these wetlands.

III. Rare and Endangered Species

CO21-8 In his short investigation, Kiviat identified several rare and endangered species including two locations harboring the endangered Narrow-leaved sedge (*Carex amphibola*; NYNHP rank S1), the rare Bush's sedge (*Carex bushii*; New York Natural Heritage Program rank S3), the rare New Jersey tea (*Ceanothus americanus*; regionally-rare) and the butterfly-weed (orange milkweed; *Asclepias tuberosa*, also regionally-rare).

Kiviat discovered an unidentified dodder species relating that it "may be one of several rare dodder species that occur in the Hudson Valley. (Several native dodders of meadows or shrublands could occur here, including *Cuscuta campestris* [S1, State Endangered], *Cuscuta compacta* [S3], *Cuscuta pentagona* [S3], and *Cuscuta polygonorum* [S1, State Endangered] [NEWFS 2013, Weldy et al. 2014].)"

CO21-7 Wetland surveys were conducted along the right-of-way during the appropriate growing season for wetland plants. Algonquin consulted with the USACE and appropriate state and local agencies regarding wetland surveys and continues to consult with them regarding obtaining appropriate permits for the Project. Survey reports were reviewed by agencies and the appropriate regulatory agencies would make the final jurisdictional determination prior to construction of the Project.

CO21-8 As explained in section 4.7.5.1 of the EIS, Algonquin consulted with the NYSDEC New York Natural Heritage Program regarding the documented occurrences of state protected species and continues to coordinate with the NYSDEC regarding the proposed Project in New York. Algonquin would coordinate with the Community Watersheds Clean Water Coalition to evaluate the findings of rare plant species as identified by Dr. Kiviat and described in this comment.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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CO21-8
(cont'd)

None of the above species were identified in the DEIS.

And, while TRC identified one *carex* species, Kiviat reports:

The diversity of true sedges (*Carex* species), all of which are native to the region, is a noteworthy feature of the pipeline ROW. Although we did not identify them all, I estimate there were 15 or more species on the ROW. This is a notable component of the diverse native flora of the ROW. In addition to the plants discussed above, several other rare native plant species could occur on the ROW.

In examining Algonquin's filings, Kiviat notes "[a]lthough common and a few rare plants are referenced in TRC (2014b), it is unclear how comprehensive a flora survey or rare plants survey was conducted by the Applicant's consultants in Westchester County."

Thus, Kiviat recommends:

A thorough survey of vascular flora (higher plants) should be conducted throughout the ROW and all adjacent areas that may be disturbed by siltation or other impacts. This work should be conducted by experienced, independent botanists. The purpose is to identify and record the locations of all the flora so that construction and restoration can be managed successfully with minimal impact on native plant populations and minimal facilitation of the spread of nonnative plants.

CO21-9

Regarding rare animals, Kiviat states "[t]he existing ROW contains potential or actual habitat for certain rare animals of conservation concern" such as the small-footed bat, the "very rare" butterfly Northern metalmark and the endangered bog turtle.

Regarding DEC Wetland A-10, Kiviat states it "not only contains potential bog turtle habitat and spotted turtle (State Special Concern) habitat, but also suitable habitat for a wide diversity of birds, other herpetofauna (reptiles and amphibians), dragonflies, damselflies, and other animals." Kiviat concludes:

Under the federal bog turtle recovery plan, because a portion of the [A-10] wetland meets the criteria for potential habitat, the entire wetland, including the portion on and adjoining the ROW, must be considered potential bog turtle habitat (Klemens 2001 and subsequent U.S. Fish and Wildlife Service policy guidance).

CO21-9

Comment noted. See the response to comment CO14-46 for bog turtles surveys. Algonquin consulted with the NYSDEC New York Natural Heritage Program regarding the documented occurrences of state protected species and continues to coordinate with the NYSDEC regarding the proposed Project in New York.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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CO21-9 (cont'd)	<p>Kiviat further recommends:</p> <p>Thorough surveys should be conducted of butterflies and dragonflies using the ROW since there is evidence of potentially important diversity and abundance in these groups of organisms. There may also be rare species that I did not detect in my limited field time. These surveys should be conducted by experienced independent biologists.</p>
CO21-10	<p>And, finally:</p> <p>AIM funds should be put into escrow for a full-time independent environmental monitor administered by, e.g., the town CACs or the New York City Department of Environmental Protection. This individual would monitor siltation control, equipment (to make sure it stays on the ROW), the appropriate procedures for salvaging and restoring native plants, and other environmental practices. It is not adequate for construction and restoration to be monitored only by the Applicant's consultants.</p>
CO21-11	<p>In sum, Kiviat's report indicates fundamental deficiencies in the DEIS relating to wetlands identification and endangered flora and fauna. Dr. Kiviat makes clear that his site visit did "not constitute a comprehensive survey of rare species, which should be conducted before planning of the pipeline upgrade is completed."</p> <p>A fundamental legal requirement of NEPA is that agencies assure that wetlands resources are accurately mapped and impacts to rare and endangered species disclosed. "[T]o the fullest extent possible" "presently unquantified environmental amenities and values" must be identified in order that they "may be given appropriate consideration in decisionmaking." 42 USC §4332. (See also <i>Kleppe v. Sierra Club</i>, 427 U.S. 390, 409, [1976] "Title 42 U.S.C. §4332[2][C] is 'one of the 'action-forcing' provisions intended as a directive to 'all agencies to assure consideration of the environmental impact of their actions in decisionmaking.'") And, specifically:</p> <p>As part of an agency's determination of the intensity of the impact, numerous factors should be considered, including the "[u]nique characteristics of the geographic area such as proximity to ... prime farmlands, wetlands, ... or ecologically critical areas.</p> <p><i>Churchill County v. Norton</i>, 276 F. 3d 1060 (9th Circuit 2001) citing 40 CFR. § 1508.27(b)(3).</p>

CO21-10 See the response to comment SA4-16.

CO21-11 See the response to comment CO21-7. Algonquin consulted with the NYSDEC New York Natural Heritage Program about the documented occurrences of state protected species and continues to coordinate with the NYSDEC regarding proposed facilities. Algonquin conducted a rare plant survey focusing on searching for the small-whorled pogonia. Algonquin will coordinate with the Community Watersheds Clean Water Coalition to evaluate the findings identified by Dr. Kiviat.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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CO21-11
(cont'd)

In fact, an agency cannot be said to have taken the requisite "hard look" in the absence of accurate wetlands identification which relies in part upon the plant species encountered. (See *Or. Natural Res. Council v. Lowe*, 109 F.3d 521, 526 [9th Cir.1997]).

CO21-12

Here, TRC's misspelled plant names and Hudsonia's identification of under-delineated or missed wetlands and existing rare and endangered species not identified by Algonquin are reasons to support supplementing the DEIS. Similarly, the project's stormwater analysis and mitigation plans require amendment because the DEIS underreports the amount of wetland soils to be excavated.

CO21-13

The DEIS's deficiencies are similar to the flawed EIS rejected in *Center for Biological Diversity v. U.S. Forest Service*, 349 F.3d 1157, (9th Cir. 2003) where the Court ruled the NEPA process to be inadequate because the Forest Service's EIS failed to discuss and respond to 7 scientific studies casting doubt on the Forest Service's conclusion regarding a certain hawk species. The Forest Service's DEIS did not specifically mention or discuss the scientific opposition.

Therefore, Algonquin must submit additional information in order that FERC and the ACOE may make an informed judgment as to the project's wetlands and rare/endangered species impacts.

IV. The Clean Water Act

To achieve the CWA's goal of protecting and rehabilitating the nation's waters, three primary initiatives are implemented by the states - waterbody use classifications, water quality standards (WQS) and antidegradation.

As a drinking water source, the New Croton receives New York's highest water classification - AA. The New York State Department of Environmental Conservation (DEC) and New York City Department of Environmental Protection (DEP) have developed numeric and narrative WQS to protect that classification.

New York's narrative WQS for phosphorus permit "[n]one in amounts that will result in growths of algae, weeds and slimes that will impair the waters for their best usages."¹¹

Numerical WQS for the New Croton require that the "[t]otal phosphorus concentrations shall be equal to or less than 15 micrograms per liter" (µg/l).¹²

¹¹ 6 NYCRR §703.2.

CO21-12 See the response to comment SA14-1.

CO21-13 See the responses to comments CO21-7 and CO21-11.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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However, concentrations of phosphorus in the New Croton regularly violate both the narrative and numerical WQS for phosphorus.¹³

To comply with the CWA, DEC and DEP worked to develop Total Maximum Daily Loads (TMDLs) for the Croton's impaired reservoirs. The Croton's watershed communities, (including Cortlandt and Yorktown) signed the 1997 Watershed Memorandum of Agreement (MOA) which initiated watershed protection programs, e.g.:

The water quality management goal of the TMDL program is to assure that the total phosphorus loading from point and non-point

¹² RCNY §18-48(b)(1). "Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and its Sources" Chapter 18, Title 15 as amended April 4, 2010. Available at <http://www.nyc.gov/html/dep/pdf/rerules/regulations.pdf>.

¹³ As explained by the NYS Attorney General's office:

"Each year during the summer and fall, phosphorus in the New Croton sets off a biological chain reaction. It promotes algae blooms that result in poor water taste, odor and color. Phosphorus-induced algae blooms also reduce dissolved oxygen in the bottom waters (due to increased bacteria ingesting dead algae), cause increased levels of the heavy metal pollutants iron and manganese, and increase levels of organic carbon. The chlorine-based disinfection of waters that are high in organic carbons results in the formation of chemicals that are suspected of having a number of serious adverse health impacts.

These water quality problems at the New Croton have created an 'operational nightmare' for DEP. As water quality degrades each summer (with a corresponding increase in customer complaints), DEP has to shut down the flow from the New Croton or blend New Croton waters with higher quality waters from the Catskills to dilute the pollutants. These reservoir shut downs often occur for months at a time. Such actions by DEP support a finding that the New Croton water quality often does not meet its New York State classification and best use as a source of drinking water. This problem, if unaddressed, could significantly worsen under drought conditions, flooding scenarios, operational failures in other portions of the water supply system, or increased demand for water in the New York metropolitan area over time." "Reducing Harmful Phosphorus Pollution in the New York City Reservoirs through the Clean Water Act's 'Total Maximum Daily Load' requirements: a Case-study of the New Croton Reservoir and Recommendation to EPA." (7/5/00 Press Release and Report at www.oag.state.ny.us/press/2000/jul/jul05a_0_0.html).

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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sources into a reservoir does not cause a contravention of the water quality standard for phosphorus. MOA¹⁴ at 162.

The TMDL implementation¹⁵ plan includes targeted reductions for non-point source phosphorus loadings. The annual phosphorus reduction for the New Croton is 1356 kilograms (2989 lbs).¹⁶ Yorktown's allotted annual reduction amount is 443 kg/yr (975 lbs/yr) and Cortlandt's is 105 kg/yr (231 lbs/yr).¹⁷

The Hunter Brook north of Mill pond (the area where Algonquin proposes to excavate wetlands), is overloaded with nutrients.^{18 19} And, DEP's most recent watershed report (2013) identifies the Hunter Brook as discharging concentrations of phosphorus into the New Croton between 20 and 40 µg/l far exceeding the New Croton's 15 µg/l WQS.²⁰

Each pound of phosphorus may produce more than 10,000 lbs of algae growth.²¹ As noted above (footnote 13), algae (as an organic material) in drinking water sources, when mixed with chlorine as a disinfectant, produce by-products (trihalomethanes) that can be a health hazard.²²

¹⁴ <http://www.dos.ny.gov/watershed/nycmoa.html>.

¹⁵ Croton Watershed Phase II Phosphorus TMDL Implementation Plan," (January 14, 2009). Available at: http://www.dec.ny.gov/docs/water_pdf/jan09crotonmdl.pdf.

¹⁶ Nonpoint Source Implementation of the Phase II TMDLs, (April 2001) at Table 2.1, available at: http://www.dec.ny.gov/docs/water_pdf/npsource.pdf.

¹⁷ Id. at Table 4.1.

¹⁸ Westchester County Croton Watershed Water Quality Conditions Report (February 2004) available at: <http://planning.westchestergov.com/crotonplan> last accessed 9/28/14.

¹⁹ See also *Waterbody Inventory for Lower Hudson River Watershed* "A biological (macroinvertebrate) assessment of Hunter Brook near Yorktown (at Crompond Road) was conducted in 2002 and 2003. Sampling results indicated slightly impacted water quality conditions. Urban runoff and nonpoint nutrient enrichment was indicated." Available at http://www.dec.ny.gov/docs/water_pdf/pwllhudson.pdf at page 50.

²⁰ "2013 Watershed Water Quality Report" Figure 3.9, Boxplot of annual medians showing the Hunter Brook phosphorus discharge ranges between 20 to 40 µg/l. Available at: http://www.nyc.gov/html/dep/html/watershed_protection/fad.shtml.

²¹ The formula for algae mass is 12C106 1H263 16O110 14N15 31P1 with TP being the limiting factor. Source Dr. Jack Smith. See also <http://www.cleanwatermn.org/learn/pdfs/Algae.pdf>. Studies in the State of Maine show 1 lb. of TP producing 10,000 lbs. of algae.

<http://www.maine.gov/dep/land/watershed/fert/article.htm>.

²² See footnote 3 above and EPA's web site "Basic Information about Disinfection Byproducts in Drinking Water: Total Trihalomethanes, Haloacetic Acids, Bromate, and Chlorite" at:

<http://water.epa.gov/drink/contaminants/basicinformation/disinfectionbyproducts.cfm>.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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In order to reduce health impacts, EPA recommends "no net increase in [phosphorus] loadings over pre-existing construction conditions" in the NYC watershed. And, EPA recommends that agencies ensure that stormwater management plans "include as much site-specific data as possible and that the most conservative measures are utilized to reduce stormwater loadings."²³

Efforts to implement the Croton TMDLs have been costly. Cortlandt and Yorktown have joined the EOHWC to use \$38 million dollars in ratepayers' money to reduce existing phosphorus loads through retrofits. CWCWC's engineer, Rahul Verma, P.E., former EOHWC Executive Director, advises that stormwater retrofits implemented by EOHWC cost over \$80,000 to remove just *one* kilogram of phosphorus from stormwater runoff, and this does not include operation and maintenance costs.

However, even were all the retrofits completed as contemplated by the 2009 Plan, Cortlandt and Yorktown would still need to reduce non-point source phosphorus by approximately 183 k/yr (402 lbs/yr).

Further, brook trout inhabit Hunter Brook. DEC classifies the Hunter Brook as C(TS) - a trout spawning stream. Any discharge causing changes in pH, reductions in DO or increases in nutrient levels and temperature are prohibited.²⁴

CO21-14 Here, the DEIS merely asserts, with no empirical support whatsoever, that pipeline construction within 5.1 acres of wetlands and over three thousand cubic yards of dredged wetland spoils will result in no water quality impacts downstream because Algonquin will surround the excavated areas and mounded spoils with filter fabric.

However, filter fabric does not retain fine sediment particles (clay and silt) even when properly installed and maintained and again, does not filter phosphorus, nitrogen or prevent changes in dissolved oxygen (DO), pH or stream temperature.

Moreover, as shown by the Dr. Kiviat's photograph of the sediment wash which completely inundated the filter fabric fence in or adjacent to the pipeline ROW, more often than not these sediment control practices fail to be installed and maintained properly.

²³ "Assessing New York City's Watershed Protection Program" (May 2000) at pg. 192; Available at: <http://www.cpa.gov/region2/water/nyeshed/tadmirev.pdf>.

²⁴ 6 NYCRR §§703-704.

CO21-14

As described in the EIS, Algonquin would install and maintain erosion and sedimentation control devices in accordance with the Project E&SCP and other CWA permit conditions. Further, Algonquin's E&SCP complies with the requirements of our Plan and Procedures that require the use of environmental inspectors to inspect construction activities and ensure compliance with project environmental protection requirements. Algonquin's E&SCP specifies the requirements for inspection and repair of erosion and sedimentation control devices in areas of active construction and other portions of the Project. Silt fence, staked hay bales and other comparable erosion and sedimentation control devices are standard mitigation measures to minimize and mitigate the potential water quality effects of construction. The CWA section 401 water quality certification that may be issued for the Project would further specify measures to be implemented to meet New York state water quality standards.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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CO21-15

The DEIS's failure to include a nutrient loading analysis prevents assessment as to whether compliance with state WQS can be achieved.

The issue is critical because the CWA requires Cortlandt and Yorktown to significantly reduce phosphorus loads to the New Croton. And, particularly relevant to the antidegradation inquiry, the Hunter Brook already violates WQS.

Furthermore, FERC must assess phosphorus to comply with the CWA's antidegradation policy. Again, that policy requires that:

Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.²⁵

It is well-settled that FERC cannot issue an approval where the project results in a contravention of water quality standards or an existing TMDL. That is exactly what occurred in *Islander East Pipeline Co., LLC v. McCarthy*, 525 F.3d 141, 144 (2nd Cir. 2008) where in affirming Connecticut's denial of a state water quality permit for a natural gas pipeline proposed to cross Long Island Sound the Court explained:

[P]ursuant to the Clean Water Act's "antidegradation policy," a state's water quality standards must "be sufficient to maintain existing beneficial uses of navigable waters, preventing their further degradation." *Id.* at 705, 114 S.Ct. 1900 (citing 33 U.S.C. § 1313(d)(4)(B)). The mandate's broad reach is reflected in 40 C.F.R. § 131.12(a)(2), which provides that states "shall assure water quality adequate to protect existing uses fully." Thus, no activity that would "partially or completely eliminate any existing use" is permitted, even if it would leave the majority of a given body of water undisturbed.

Regarding antidegradation in the Croton, the National Research Council²⁶ (NRC) advised that "waterbodies cannot be allowed to sustain pollutant loadings that will prevent them from meeting their specific use classification and associated water quality criteria." Thus, NRC recommended:

An explicit consideration of a receiving water's assimilative capacity should be required as part of draft environmental impact statements.

²⁵ http://www.dec.ny.gov/docs/water_pdf/togs139.pdf.

²⁶ "Watershed Management for Potable Water Supply: Assessing the New York City Strategy (2000)" available at http://www.nap.edu/openbook.php?record_id=9677&page=360.

CO21-15

Section 4.3.2.1 of the EIS has been revised to include a discussion of phosphorus within the Croton Watershed and measures Algonquin would implement to minimize impacts during construction. As indicated in table 1.3-1 of the EIS, Algonquin would obtain State Pollution Discharge Elimination System (SPDES) Program permits from the NYSDEC, including the development of a SWPPP. The EIS is a summary document intended to disclose the potential impacts of a proposed action. The document incorporates by reference all of the material filed in support of the permits and other regulatory clearances required to construct the facilities, should the Commission issue a Certificate for the Project. As such, the presentation of potential wetland and water quality impacts provided in the EIS is sufficient for the public and decision makers to assess the potential impacts of the Project.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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Consideration of assimilative capacity should be stated clearly to facilitate understanding by the public in written guidance documents, within draft EISs, and during public hearings. The stated purpose of antidegradation is for communities, regulators, and dischargers to consider the assimilative capacity of waterbodies.²⁷

Here, studies conducted on the NYC watershed (including tributaries to the New Croton) indicate that phosphorus readily travels downstream in a process known as "nutrient spiraling."²⁸ Unlocking trapped nutrients in 5 acres of dredged and disturbed wetlands along the 2.3 mile pipeline route could release several pounds of phosphorus into the Hunter Brook and spur the growth of thousands of pounds of algae²⁹ in the New Croton.

CO21-16 Again the DEIS contains absolutely no data concerning the assimilative capacity of the Hunter Brook or even recognition that it is overladen with phosphorus and exacerbates violations of WQS in the New Croton. And, the DEIS's failure to assess nutrient loads leaves unanswered how the trout population in Hunter Brook may be impacted by increased nutrients. As indicated by the attached report from Trout Unlimited (TU), brook trout in the Hunter Brook are sensitive to silt deposition, increased nutrient levels and changes in temperature.

In sum, the project is within the watershed for the Croton's terminal reservoir - New Croton reservoir basin and the Hunter Brook sub-drainage basin – both of which are impaired by phosphorus. Despite the extensive network of rules and regulations designed to stem the increase of phosphorus in these water bodies, the DEIS utterly fails to disclose the quantity of the project's phosphorus loadings and impacts to those important resources.

V. Cumulative Impacts

NEPA requires examination of cumulative impacts. "[A]gencies shall consider 3 types of actions... which may be:

²⁷ *Id.* at pg. 373.

²⁸ See "Uptake of nutrients and organic C in streams in New York City drinking-water-supply watersheds" Stroud Water Research Center (2006), available at: http://www.stroudcenter.org/nyproj_pios/pdfs/newbold2006_jnabs_nyprojectsirling.pdf.

²⁹ One pound of TP produces approximately 500 lbs. of algae. (The formula for algae mass is 12C106 1H263 16O110 14N15 31P1 with TP being the limiting factor. Source Dr. Jack Smith and see <http://www.cleanwatermn.org/learn/pdfs/Algae.pdf>). Maine studies show 1 lb. of TP producing 10,000 lbs. of algae. <http://www.maine.gov/dep/land/watershed/fert/article.htm>.

CO21-16 Comment noted. Sections 4.3.2.6 and 4.4.3 of the EIS discuss impacts and mitigation to surface waters and wetlands, and section 4.3.2.2 specifically discusses sensitive waterbodies including waters that do not meet state water quality standards associated with the water's designated beneficial uses and surface waters that have been designated for intensive water quality management. Section 4.3.2.1 of the EIS explains that the Cortlandt M&R Station in New York is located adjacent to an unnamed tributary to Hunter Brook, and the proposed construction activity and operation of this facility would not directly affect the tributary to Hunter Brook or Hunter Brook and its associated aquatic organisms, including trout. As further explained in section 4.3.2.3 of the EIS, waterbodies within the Croton River Watershed would be crossed using the dry crossing method, which isolates trench spoil and sediment from stream flow and that spoil removed during the trenching would be stored away from the water's edge and protected by sediment containment structures. As explained in section 4.4 of the EIS, section 401 of the CWA requires that proposed dredge and fill activities under section 404 of the CWA be reviewed and certified by the designated state agency so that the proposed Project would meet state water quality standards. Algonquin has submitted a 401 Water Quality Certification (WQC) application to the NYSDEC and all water quality concerns will be addressed through the 401 WQC application process with the NYSDEC. As further explained in the conclusion of section 4.3.2.6 of the EIS, Algonquin is developing a SWPPP in consultation with the NYCDEP to address concerns about crossing New York City watersheds. Applicable construction stormwater best management practices would be implemented to prevent runoff from contaminated and non-contaminated sites to impaired waters.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.

40 CFR §1508.25. Case law is replete where matters were remanded in order for an agency to properly address cumulative impacts. For instance, in *Defenders of Wildlife v. North Carolina Department of Transportation*, 44 F.L.R. 20181, (4th Cir. 8/6/14) the court advised:

"[A]gencies must measure the indirect and cumulative environmental effects of proposed actions. ... Conclusory statements that the indirect and cumulative effects will be minimal or that such effects are inevitable are insufficient under NEPA." *N.C. Wildlife Fed'n*, 677 F.3d at 602 (citation omitted).

Agencies may not engage "in segmentation, which involves 'an attempt to circumvent NEPA by breaking up one project into smaller projects and not studying the overall impacts of the single overall project.'" *Webster v. U.S. Dep't of Agric.*, 685 F.3d 411, 426 (4th Cir. 2012) (quoting *Coal. on W. Valley Nuclear Wastes v. Chu*, 592 F.3d 306, 311 (2d Cir. 2009)).

Specifically, "[p]roposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement." 40 C.F.R. § 1502.4(a).

Proposed projects are considered "connected" if they:

- (i) Automatically trigger other actions which may require environmental impact statements[;]
- (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously[; or]
- (iii) Are interdependent parts of a larger action and depend on the larger action for their justification." *Id.* § 1508.25(a)(1).

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Agencies must also assess “[c]umulative actions,” and “[s]imilar actions” with “common timing or geography” in the same impact statement. 40 CFR §1508.25(a)(2)-(3).

CO21-17 Here, scrutiny of the AIM project’s design parameters proves it is only a segment of a larger plan to increase natural gas delivery to New England and Canada. Specifically, the proposed 42-inch diameter pipeline to be installed from Stony Point to MP 12.3 has as a Maximum Allowable Operating Pressure (MAOP) of 1440 psig.³⁰ However, Algonquin says it will only increase the psig from 674 to 850. 850 psig is only 59% of the 42 inch pipeline’s MAOP and thus the DEIS provides no justification as to why such an over-sized diameter is proposed.

It appears the 12.3 mile segment is only the first phase in replacing the entire 28-mile segment of existing 26-inch diameter pipeline between Stony Point and Southeast in order to increase the pressure within the entire length of pipeline to 1440 psig (as is the case with the Constitution Pipeline in Upstate New York).

CO21-18 Interestingly, pipeline data from the gas industry shows that 850 psig exceeds the MAOP of the existing 26-inch line installed over 50 years ago.³¹ The DEIS fails to consider whether this increase is a safety concern. If there is a safety concern, Algonquin will undoubtedly argue in the near future that with its new infrastructure in place (the 15,900 hp turbine and 42 inch pipe) it should proceed to replace the remaining 26-inch pipeline located between Stoney Street and its compressor station in Southeast.

CO21-19 Indeed, that appears to be precisely what is planned by Algonquin with its plan to use the AIM project as a springboard to achieving its ultimate goal of expanding the delivery of natural gas to New England and Canada. Algonquin’s new project is known as the Atlantic Bridge (AB) project. Specifically, Algonquin announced on its website months ago that:

Algonquin and Maritimes recently executed an agreement with Unifil Corporation to participate as an anchor shipper in the [Atlantic Bridge] project.

Algonquin further conducted an “open season” “for customers in early 2014 to submit requests for additional natural gas service.” Algonquin reports that

³⁰ “Interstate Natural Gas Pipeline Efficiency” Interstate Natural Gas Association of America (October 2010).

³¹ Id. at Table 1.

- CO21-17 See the responses to comments FA3-5, SA2-2, and SA2-5. See also the additional discussion in section 1.1 of the EIS regarding the Commission's Policy Statement. Pipeline companies are not required to operate at the MAOP of the pipeline. A company designs and engineers a project to meet contractual demands, using pressure determined by such demand and system operating constraints.
- CO21-18 Algonquin is not proposing to increase the pressure along the existing 26-inch pipeline. Algonquin must comply with PHMSA rules regarding operating pressures, which are designed to ensure an adequate margin of safety for high pressure gas pipelines.
- CO21-19 See the response to comment FA3-5.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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CO21-19
(cont'd)

"[t]he response from the market was both positive and favorable, in line with expectations, and we plan to move forward with the [AB] Project."

With regard to impacts upon the Croton, Algonquin's website includes a map showing extension of the 42" diameter pipeline expansion east from Stoney Street in the Town of Yorktown another 4.1 miles into the Town of Somers – almost double the existing impact to the Croton.

According to USGS maps of the pipeline and DEC's environmental resource mapper, that 4.1 mile segment would cross 1.8 miles of wetlands and wetland buffers and likely result in the excavation of thousands of additional cubic yards of hydric soils. The AB project would dredge several significant state designated wetlands including A-34, A-4, A-39, A-2, and ML-10. Potential impacts to state wetland A-2's stream and wetland buffer are most noteworthy as the AB extension would traverse more than 3000 feet of the wetland.

Thus, AB presents a new, significant and certain impact to the Croton that has progressed beyond the planning stage. Algonquin has notified both the Towns of Yorktown and Somers of the AB project and identified the tax lots to be impacted.³² It has scheduled informational hearings on the new project in both Yorktown and Suffern, New York. Curiously, Algonquin scheduled its first AB informational meeting on September 29, 2014, at 5:30pm, only thirty minutes after the comment period on this project expires.³³ Thus, Algonquin's scheduling prevents the public from identifying potentially significant cumulative impacts from the combined AIM/AB projects and submitting timely comments to FERC and the ACOE.

As defined by 40 CFR §1508.25(a)(1)(iii), the AIM and AB projects are "connected" and require simultaneous review. Indeed, it is well settled that "NEPA requires that the agency evaluate a project's environmental consequences early in the planning process." *Friends of the Earth, Inc. v. Coloman*, 518 F.2d 323, 327 (9th Cir. 1975). As above, Algonquin has gone far beyond merely planning for the AB project.

Due to the AIM/AB common impacts to the exact same resource – the Croton – and presentation of the exact issues regarding water quality impacts, a cumulative impact analysis is required. (See *Churchill County v. Norton*, 276 F.3d 1060, [9th Cir. 2001] citing 40 C.F.R. §1502.4 in stating that agencies should examine actions "[g]eographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.")

³² See attached Algonquin notice to the Town of Somers dated 9/3/14.

³³ See attached Algonquin notice dated 9/6/14.

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CO21-19
(cont'd) Clearly, FERC's failure to consider the AIM/AB's cumulative impacts contravenes the plain language of 40 CFR 1508.25(a)(1)-(3) as well as NEPA's "hard look" standard. Indeed, as the Supreme Court ruled in *Kleppe v. Sierra Club*, 427 U.S. 390, 410 (1976):

[W]hen several proposals ... that will have cumulative or synergistic environmental impact upon a region are pending concurrently before an agency, their environmental impacts must be considered together....

Only through comprehensive consideration of pending proposals can the agency evaluate different courses of action.

Similarly, in *Natural Resources Defense Council v. U.S. Forest Service* No. 04-35868, 35 ELR 20160 (9th Cir. Aug. 5, 2005) the U.S. Court of Appeals for the 9th Circuit reversed the lower court in part because the EIS did not consider the cumulative impacts of past and reasonably foreseeable future nonfederal logging in the Tongass forest. Most recently, in a case directly on point, the Court advised that FERC had violated NEPA by allowing the segmented review of expansion phases for a natural gas pipeline and failing to conduct a meaningful review of the cumulative impact resulting from all phases of the expansion. *Delaware Riverkeeper Network, et al. v. Federal Energy Regulatory Commission*, No. 13-1015, slip op. at 2-3 (D.C. Cir. June 6, 2014). Again, no matter how a project is split up for development purposes, it is incumbent on FERC to examine it for possible reasonably foreseeable and certain cumulative impacts when considered in light of other existing or pending projects.

Again, for example, in *Thomas v. Peterson*, 753 F.2d 754 (9th Cir.1985), the court found sufficient evidence mandating review of cumulative effects, "including sediment deposits in the Salmon River (detrimental to fish) and destruction of critical habitat for the endangered Rocky Mountain gray wolf." (Cf. *Sierra Club North Star Chapter v. LaHood*, 693 F. Supp.2d 958 [D. Minn. 2010] where meaningful cumulative impact analysis was conducted where the agency set forth the geographic and time boundaries, summarized the existing condition of each potentially affected resource, summarized the impacts of the proposed project on each resource, identified other current and reasonably foreseeable future actions and their possible impacts on those resources, and discussed the potential for cumulative impacts on the resources and mitigation measures.)

CO21-21 Consequently, FERC must conduct a supplemental review to examine the AIM/AB's cumulative impact to the Croton from the disturbance of a total of 6.4 miles of pipeline replacement. The impact is substantial as construction within the

CO21-20 See the response to comment FA3-5. Also, section 4.13 of the EIS discusses the criteria for including activities within the scope of the cumulative impacts analysis. Consistent with CEQ and EPA guidance (as well as with the commentor's cited court decisions), we make a practical delineation of the spatial and temporal scales, in order to include all potentially significant effects on resources of concern. While an Atlantic Bridge Project would likely be within the spatial range of the AIM Project's impacts, we do not know whether such a project will be proposed (i.e., an application filed with the Commission), nor its exact scope and timing if it is proposed. Nonetheless, we have expanded the cumulative impacts assessment in section 4.13 of the EIS to include supplemental information about that potential project.

CO21-21 See the response to comment FA3-5.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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CO21-21
(conf'd) pipeline's 75 foot right of way for 6.4 miles would disturb 75 acres within the Croton.

VI. Alternatives

A robust alternatives analysis is critical to a proper NEPA review.

An agency's comparative evaluation of alternatives to the proposed action "is the heart of the environmental impact statement" because it "sharply defin[es] the issues and provid[es] a clear basis for choice among options by the decisionmaker and the public." 40 C.F.R. § 1502.14. Therefore, agencies must "[r]igorously explore and objectively evaluate all reasonable alternatives[.]" Id. § 1502.14(a). The assessment of the environmental impacts is the "scientific and analytic basis for the comparison[]" of alternatives. 40 C.F.R. § 1502.16.

Defenders of Wildlife v. North Carolina Department of Transportation, 44 ELR 20181, No. 13-2215, (4th Cir. 08/06/2014). Additionally, regarding wetlands impacts, the CWA presumes alternatives avoiding such impacts exist.³⁴

³⁴ Except as provided under section 404(b)(2), no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.

(1) For the purpose of this requirement, practicable alternatives include, but are not limited to:

(i) Activities which do not involve a discharge of dredged or fill material into the waters of the United States or ocean waters...

(2) An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. If it is otherwise a practicable alternative, an area not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity may be considered.

(3) Where the activity associated with a discharge which is proposed for a special aquatic site (as defined in subpart E) does not require access or proximity to or siting within the special aquatic site in question to fulfill its basic purpose (i.e., is not "water dependent"), practicable alternatives that do not involve special aquatic sites are presumed to be available,

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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CO21-22 Here, the DEIS includes no alternative where the junction point of the 42 and 26 diameter pipelines is not in the Croton. In fact, no justification whatsoever is given for the Stoney Street location.

Additionally, the use of Horizontal Directional Drilling (HDD) in the Croton would significantly reduce impacts upon the watershed. CWCWC's engineer has examined Algonquin's HDD Feasibility Report determining that it is deficient in several critical respects. (See comments of Verma Engineering).

Therefore, the DEIS is deficient in taking a hard look at justifying the Stoney Street junction point and eliminating HDD as an alternative to avoid wetlands impacts in the Croton.

VII. Supplemental Analysis

The CEQ's regulations provide:

If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.

40 CFR 1502.9(a). Similarly, Agencies:

Shall prepare supplements to either draft or final environmental impact statements if ...

There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

CO21-23 40 C.F.R. §1502.9(c)(1)(ii). The comments herewith by Hudsonia, Verma Engineering and Trout Unlimited indicate the DEIS is deficient in addressing impacts concerning amount of wetlands to be disturbed, endangered and rare

unless clearly demonstrated otherwise. In addition, where a discharge is proposed for a special aquatic site, all practicable alternatives to the proposed discharge which do not involve a discharge into a special aquatic site are presumed to have less adverse impact on the aquatic ecosystem, unless clearly demonstrated otherwise.

40 C.F.R. §230.10(B); emphasis added.

CO21-22

Section 3.4.1 of the EIS provides a discussion on the facility design and siting for the proposed replacement pipeline segments (i.e., why they are where they are). Because this segment of the Project is a replacement where the existing 26-inch-diameter pipeline would be replaced with a 42-inch-diameter pipeline, the proposed alignment would maximize the use of existing right-of-way, which would minimize impacts on the environment during construction. Factors in HDD design include the availability of a straight and relatively low relief laydown area for the pullback pipe section; the availability of large work areas at the HDD entry and exit points; surrounding terrain; land use; and operation concerns. In addition, for the larger diameter pipeline segments (i.e., 42- inch), the minimum drill length is quite long (around 2,000 feet or more). Some of the other major limiting factors in the more densely populated areas of the Project included new temporary impacts on nearby residences, direct impacts on residential homes, and the need to acquire new easement rights for the permanent right-of-way for operation and maintenance of the pipeline. Based on information from Algonquin, our review of Project mapping, and information we obtained during visits to the Project area, we conclude that the use of the HDD method in other areas, including the Croton Watershed, would be either technically infeasible, impractical, or would not result in a clear environmental advantage to the proposed methods. However, Algonquin would implement several other measures to minimize impacts on the Croton Watershed (see section 4.3.2 of the EIS).

CO21-23

We disagree. The EIS has been updated to reflect additional information and to respond to comments, including the resources identified by the commentor. However, in no instance would the requested additional information provide a substantial change to the proposed action or to the resulting impacts previously identified in the draft EIS. In many instances, impacts have been further reduced due to additional mitigation commitments by Algonquin. Also, FERC accepts comments on its final EISs and addresses those comments in its decision on whether to approve or deny a project. For these reasons, we believe the analysis in the draft EIS and the revised analysis in the final EIS is appropriate.

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CO21-23
(cont'd) species and impacts upon water quality. To correct these oversights and omissions supplemental review should include:

- Updated wetlands mapping to include the seven instances of under-delineated or missed wetlands identified by Dr. Kiviat.
- Comprehensive rare and endangered species surveys for the species and potential species identified by Dr. Kiviat.³⁵
- Examination of avoiding impacting rare and endangered species identified by Dr. Kiviat. 40 CFR 230.75 (c).
- A pollutant loading analysis for discharges to the Croton.
- Discuss baseline and future levels of phosphorus, pH, DO and temperature in all receiving waters especially the Hunter Brook.³⁶
- A Waste Assimilative Capacity analysis of the Hunter Brook above Mill Pond.
- Assessment of the AIM and Atlantic Bridge's cumulative impacts upon the Croton watershed, WQS, the Hunter Brook, wetlands and flora and fauna, including completing thorough rare and endangered species surveys.
- Examination of alternatives that avoid the Croton watershed.
- Explanation of why Algonquin chose Stoney Street as the point for the 42 inch to 26 inch pipeline connection

VIII. Conclusion

CO21-24 For all of the above reasons, FERC must prepare and issue a supplemental EIS (SEIS). The incomplete water quality impact data in the DEIS is insufficient to support issuance of a 401 water quality certification. Without such a certification, the federal agency may not issue the license or permit *See Islander E. Pipeline Co. v. McCarthy*, 525 F.3d 141 (2d Cir.2008) (upholding denial of state certification for natural gas pipeline on ground that backfill discharge would violate state's antidegradation policy). Failure to prepare an SEIS would be contrary to the plain language of the CEQ's regulations, the purposes of NEPA as well as NEPA case law and would therefore be subject to judicial remand.

Respectfully submitted,



James Bacon
Attorney for CWCWC

³⁵ See 40 CFR 230.30 - Threatened and endangered species.

³⁶ See 40 CFR Part 230, Subpart C - Potential Impacts on Physical and Chemical Characteristics of the Aquatic Ecosystem.

CO21-24 See the responses to comments FA4-1 and CO21-23. Also, the EIS is not a permitting document. It is a summary document that provides decision makers with sufficient information to decide if, from an environmental perspective, the Project may be approved. In addition to the EIS, the permit applications provide the detailed information to the applicable agencies to support the section 401 permitting, and the section 401 permits would provide the specific mitigation measures required to support its issuance.

**CO21 – Community Watersheds Clean Water Coalition, James
Bryan Bacon (cont'd)**

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**Preliminary Biodiversity Assessment of the Algonquin Gas Pipeline in the
Towns of Yorktown and Cortlandt, Westchester County, New York**

Erik Kiviat PhD
Hudsonia

Report to Community Watersheds Clean Water Coalition

27 July 2014
Revised 29 September 2014

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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Introduction

At the request of Community Watersheds Clean Water Coalition, and in response to the proposed expansion of transmission capacity and the right-of-way (ROW), Hudsonia reconnoitered segments of the Algonquin Gas Pipeline ROW and associated wetlands in the towns of Yorktown and Cortlandt, Westchester County, New York (U.S. Geological Survey, 1956, Photorevised 1981, Mohegan Lake, N.Y., 7.5 minute topographic map sheet). I spent two days in the field on 1 and 9 July 2014, as well as examining geologic, topographic, and wetland maps, and selected documents and maps associated with the development proposal. The weather during field work was hot, sunny the first day and cloudy the second day, calm or with a light breeze, and with precipitation limited to the last half hour of the second day. Total field time was about 16 hours. I recorded approximate locations of noteworthy features with a Garmin GPS 12 or read coordinates from Google Earth. The scope of this assessment did not include checking wetland boundary delineations, performing complete surveys of flora or fauna, or walking the entire pipeline ROW in Yorktown and Cortlandt.

Hudsonia does not take positions for or against land use projects. We conduct research and provide results and recommendations to the involved parties and the public. Our expertise is focused on wild plants, animals, and habitats (e.g., Kiviat and Stevens 2001, Kiviat 2013, Kiviat and Johnson 2013). Hudsonia's aim is to enable and encourage a decision-making process that addresses biodiversity scientifically and comprehensively, and assists decision-makers in minimizing impacts on biodiversity and its environmental support.

Observations and Discussion

The vegetation of the ROW was oldfield-like, predominantly of upland plant species, with wetland plants in a number of areas where either the pipeline crossed larger wetlands or where small wetlands occurred on the ROW. Many species of native plants were present, some (e.g., common milkweed [*Asclepias syriaca*] and Indian-hemp [*Apocynum cannabinum*]) occurring in large patches. Many species of nonnative plants were also present; siltgrass (*Microstegium vimineum*) was widespread and abundant, and the nonnative form of common reed (*Phragmites australis*) occurred in patches but multiflora rose (*Rosa multiflora*) was uncommon and mostly small (probably deer-browsed).

Common milkweed, Indian-hemp, Canada thistle (*Cirsium arvense*), and other plants provided resources for flower-visiting insects which were common along with their predators. Several species of butterflies were conspicuous (great spangled fritillary, little wood satyr, common wood nymph, silver-spotted skipper, and unidentified skippers), along with several dragonfly species. Utility rights-of-way are commonly important habitats for butterflies (e.g., Berg et al. 2013).

Except for small areas, the ROW was bordered by extensive mature hardwood forest that included a good number of large trees in the 60-90+ cm dbh size range. Sugar maple, oaks, and black birch were common, along with several less common tree species. West of Lexington Avenue the forests were also mature but more urban-influenced with black locust and Norway maple common. These forests are part of a large forested area that is unusual for its extent in Westchester County.

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Wetlands

The Applicant delineated wetland boundaries on the ROW. Maps prepared for the Applicant unfortunately do not provide landmarks or coordinates that would enable easy location of mapped wetlands in the field. I reviewed the AIM wetland report (TRC 2014a) and looked for wetlands opportunistically on the ROW. I found several locations on the ROW that supported wetland plants; these are probably federal jurisdictional wetlands (Table 1). A few wetland flags were visible on the ROW, especially at the wetland east of Stoney Street (shown first in Table 1). However, I believe the wetlands listed in Table 1 were either omitted from the Applicant's wetland delineation report (TRC 2014a) or under-delineated. Furthermore, very few sedges (*Carex* spp.) were recorded on the wetland field data sheets in the delineation report (TRC 2014a), despite the abundance and diversity of sedges on upland and wetland habitats of the ROW. The apparent inattention to sedges underlines the importance of checking the accuracy of wetland delineations, because many sedges are important wetland indicator species, and sedges are an important component of biodiversity at this site. It should be possible to find most or all of the wetlands on the ROW by recognizing wetland indicator plants, especially those species listed in Table 1 plus other *Carex* species, and the wetlands located thusly should be confirmed and delineated by means of soil characteristics. Although some of these wetlands are very small, they are likely to be important habitats for plants and wildlife.

Table 1. Small wetlands on the existing Algonquin Pipeline right-of-way that mostly lacked boundary delineation flags. Based on the plants listed and other features, these appear to be undelineated wetlands, or undelineated portions of delineated wetlands.

UTM E	UTM N	Wetland plants ¹	Notes
597633	4573241	<i>Typha</i> , <i>Scirpus atrovirens</i> , <i>Eleocharis tenuis</i> , <i>Polygonum sagittatum</i>	Beginning 10 m E of gate at Stoney Street; on intermittent stream draining into Wetland A-34 and Hunter Brook (shown on Applicant maps but may not have been completely mapped)
596286	4572211	<i>Carex vulpinoidea</i> , <i>C. lurida</i>	
596707	4572501	<i>Carex lurida</i> , <i>Polygonum sagittatum</i>	
596805	4572585	<i>Scirpus atrovirens</i>	40+ m long E-W
596983	4572695	Not recorded	E side of old stone wall crossing ROW
597048	4572709	<i>Carex vulpinoidea</i> , <i>Thelypteris palustris</i> , <i>Scirpus atrovirens</i>	
597221	4572782	<i>Scirpus atrovirens</i> , <i>Polygonum sagittatum</i>	S side of ROW

¹Not necessarily a complete list of wetland indicator plants.

The wetland field data sheets reproduced in TRC (2014a) contain many misspelled plant names. The inaccuracies in spelling (which could have been corrected following field work) suggest there might also be incorrect plant identifications or other errors.

CO21-25 See the response to comment CO21-7.

CO21-26 See the response to comment CO21-7.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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Rare Plants

CO21-27

I found several rare plants on the ROW. This does not constitute a comprehensive survey of rare species, which should be conducted before planning of the pipeline upgrade is completed. Regionally-rare species are rare in the Hudson Valley region but not necessarily statewide in New York (Kiviat and Stevens 2001); these species are important for conserving biological diversity in the region because they may contain unique genes or be of regional ecological or educational significance. Although some common and a few rare plants are referenced in TRC (2014b), it is unclear how comprehensive a flora survey or rare plants survey was conducted by the Applicant's consultants in Westchester County.

Bush's sedge (*Carex bushii*; S3 ; see photograph below). I found this sedge at two locations between Stoney Street and Lexington Avenue. There were small groups of culms (aerial stems) at these locations. At the first location, a south-facing slope in the northern edge of the ROW, Bush's sedge co-occurred with a native rose (*Rosa virginiana* or *R. carolina*); at the second location Bush's sedge was near the unidentified milkweed (see below) and various wetland plants in a (partially?) delineated wetland on the southern edge of the ROW.



Bush's sedge (*Carex bushii*; New York Natural Heritage Program rank S3) on the Algonquin Pipeline right-of-way west of Stoney Street, 9 July 2014.

Narrow-leaved sedge (*Carex amphibola*; NYNHP rank S1, listed as Endangered in New York). I found this species at two locations on the right-of-way. Although narrow-leaved sedge is listed as Endangered in New York, it may be more frequent in New York than this listing indicates (R. Naczi, personal communication). Nonetheless, the species may be at least regionally-rare and is listed as Endangered, thus for now merits protection on the right-of-way.

CO21-27 See the response to comment CO21-11.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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CO21-27
(cont'd)

New Jersey tea (*Ceanothus americanus*; regionally-rare). I found several clumps of this small subshrub, in flower, on a south-facing slope in the northern part of the right-of-way between Stoney Street and Lexington Avenue. Also at this location I found three stems of butterfly-weed (orange milkweed; *Asclepias tuberosa*, also regionally-rare).

Unidentified milkweed (*Asclepias* sp.). This milkweed keyed out to swamp milkweed (*Asclepias incarnata*, a common species) but the leaves were broader, the stem hairier, and the flower color darker than what I consider typical for swamp milkweed in the Hudson Valley. Several stems occurred at two locations west of the second Bush's sedge location in the southern and central portions of the ROW. This could be purple milkweed (*Asclepias purpurascens*; S2S3) or a hybrid of purple milkweed and swamp milkweed. The identification needs to be checked.

Dodder (*Cuscuta*). I found at least two plants of dodder on the ROW on an upland slope west of Wetland A-10. The plants were not yet in flower and thus were unidentifiable to species. This habitat was too dry for the common swamp dodder (*Cuscuta gronovii*), and the dodder may be one of several rare dodder species that occur in the Hudson Valley. (Several native dodders of meadows or shrublands could occur here, including *Cuscuta campestris* [S1, State Endangered], *Cuscuta compacta* [S3], *Cuscuta pentagona* [S3], and *Cuscuta polygonorum* [S1, State Endangered] [NEWFS 2013, Weldy et al. 2014].)

River birch (*Betula nigra*; Rare S3) was reported in Wetland B13 in the Town of Cortlandt (TRC 2014a). No further information was available to me. Inasmuch as "nigra" means black, this could be a recording error for black birch (*Betula lenta*, a common species) which occurs along the ROW edges. If it was indeed river birch, this may be an unusual native occurrence on the east side of the Hudson River.

Yellow birch (*Betula alleghaniensis*). I found scattered sapling-size and pole-size stems, mostly in the southern edges of the ROW but at least once in the northern edge, at various locations between Lexington Avenue and Stoney Street as well as east of Stoney Street. Yellow birch is not a rare species in New York and is found almost throughout the state (Weldy et al. 2014). However, this species is uncommon to rare southward and near the Hudson River. The presence of a number of yellow birches in the forest edges along the ROW may indicate a relict cool microclimate favorable to other cool-climate species and important for biodiversity conservation.

The diversity of true sedges (*Carex* species), all of which are native to the region, is a noteworthy feature of the pipeline ROW. Although we did not identify them all, I estimate there were 15 or more species on the ROW. This is a notable component of the diverse native flora of the ROW.

In addition to the plants discussed above, several other rare native plant species could occur on the ROW. A current Hudsonia study in Columbia County has identified several rare native plants on electric transmission rights-of-way which are ecologically similar to the Algonquin pipeline ROW.

Rare Animals

CO21-28 The existing ROW contains potential or actual habitat for certain rare animals of conservation concern. In at least one location at the northern edge of the ROW between Stoney Street and Lexington Avenue,

CO21-28 See the response to comment CO21-9.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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CO21-28
(cont'd) | there was a large rock with a south-facing 1 cm wide crack that is potential summer roosting habitat for the small-footed bat, a New York State species of Special Concern. Northern metalmark is a very rare butterfly that may occur in transmission ROW habitat (Barbour 1997); Barbour mentioned other rare biota he found in ROWs (the Barbour article is about electric transmission ROWs which are ecologically similar to gas pipeline ROWs). The forest adjoining the Algonquin ROW west of Stoney Street supports Species of Greatest Conservation Need birds including scarlet tanager and wood thrush.

Potential habitat for the bog turtle, a species listed by New York as Endangered and federally listed as Threatened, was reportedly identified by the Applicant's consultants in Wetland A-10; however, I have been unable to obtain the report on this assessment (a bog turtle assessment was mentioned in TRC 2014b as intended to be performed in spring 2014). I examined an extensive portion of this wetland just north of Route 35 and west of Lexington Avenue (south of the entrance road to the Yorktown Golf and Baseball Center) that was dominated by tussock sedge (*Carex stricta*) and a tall (1 meter) rhizomatous sedge in vegetative condition that was possibly lakeside sedge (*Carex lacustris*). The sediment was soft to a depth of about 25 cm. Wetland A-10 between the Club entrance road and Route 35 generally shows urban influences but is floristically diverse and dominated by native plants. This wetland not only contains potential bog turtle habitat and spotted turtle (State Special Concern) habitat, but also suitable habitat for a wide diversity of birds, other herpetofauna (reptiles and amphibians), dragonflies, damselflies, and other animals. Although this wetland may have experienced higher-than-natural siltation in recent years, additional siltation could be damaging to the potential bog turtle habitat which receives drainage from the ROW. Under the federal bog turtle recovery plan, because a portion of the wetland meets the criteria for potential habitat, the entire wetland, including the portion on and adjoining the ROW, must be considered potential bog turtle habitat (Klemens 2001).

The mature forests, with large trees and dead or injured trees, offer potential summer roosting and nursery habitat for the federally and state Endangered Indiana bat and other bats.

Siltation

Poor siltation control practices on construction sites are widespread (Paterson 1994; Kiviat, personal observations). Prefabricated silt fencing was considered subject to technical deficiency, poor installation, and inadequate maintenance (Paterson 1994), and field measurements showed that silt fencing removed little of the fine sediment from stormwater leaving construction sites (Barrett et al. 1995, 1998). An existing filter fabric silt fence east of Stoney Street, evidently intended to prevent sediment from the equipment road on a steep slope escaping into a small stream draining north-to-south through Wetland A-34, on 9 July had a segment where sediment had overtopped the fence during a recent storm (see photo, below). This stream flows into Hunter Brook which flows into the New Croton Reservoir approximately 1.8 miles (map distance) SSW of Wetland A-34. This illustrates the risk that the proposed pipeline construction poses to the New York City reservoir system, as well as to wetland and stream habitats.

Hunter Brook is listed by the DEC as a trout-spawning stream. It is likely that trout spawn in small tributaries as well as the mainstem of Hunter Brook. Siltation, associated nutrient loading, and removal of woody vegetation from Hunter Brook or its tributaries could compromise the quality of this stream system for trout.

CO21-29 | See the responses to comments CO21-6 and CO21-14.

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Filter-fabric silt fence overtopped by storm flow draining into Wetland A-34, photographed 9 July 2014. Photograph looking downhill from the pipeline right-of-way just east of Stoney Street.

The surface waters tributary to the East-of-Hudson portion of the New York City water supply watershed were designated as Critical Resource Waters (U.S. Army Engineers 2002). This designation requires more stringent conditions for wetland permits. A general review and analysis of the impacts of pipeline construction on water quality is in Kiviat and Richardson (2014), who stated that pipeline construction projects "...affect stream channel configurations, increase turbidity and suspended sediment in surface waters, increase nutrient loading of surface waters, reduce dissolved oxygen (DO), change sediment characteristics of stream and wetland bottoms, remove water from streams, and remove riparian vegetation. Some of these changes ...last for a few days or weeks and some almost certainly ...last more than a season." Impacts of the AIM pipeline project on streams and wetlands would be cumulative with other transmission, transportation, residential, commercial, industrial, and forestry projects in the towns of Yorktown and Cortlandt. I expect that siltation from pipeline upgrading will cause damage to biodiversity as well as contributing a significant amount of suspended sediment to the New York City water supply system.

Widening the Right-of-way

Most of the pipeline right-of-way I reconnoitered is bordered on the north side by mature hardwood forest with scattered large trees (ca 60-90 cm dbh). The AIM proposal apparently includes widening the right-of-way by about 75 feet to the north. This would require clearing a large collective area of forest. Clearing forest would reduce potential habitat for summer roosting of Indiana bat and other bats, breeding of several forest songbird Species of Greatest Conservation Need, and many other organisms, as well as almost certainly creating a large amount of soil erosion and siltation into streams and wetlands. Forests are crucial for the maintenance of good water quantity and quality in waterbodies and wetlands (Wilder and Kiviat 2008). I question whether widening the right-of-way is necessary to increase transmission capacity of the pipeline, and whether the probable attendant siltation to local habitats and the New York City water supply system is justifiable.

CO21-30 Comment noted. Algonquin would implement sediment and erosion controls and would restore and revegetate disturbed areas following construction, which would minimize the impacts of the Project and any associated cumulative impacts.

CO21-31 Right-of-way configurations are discussed in sections 2.2.1 and 4.8.1.2 of the EIS. Construction right-of-way widths would be narrowed from 100 to 75 feet in sensitive areas such as wetlands. Permanent right-of-way widths vary. In some areas, additional temporary workspace (ATWS) is needed beyond the nominal construction right-of-way, for example at road or railroad crossings. However, the Project does not entail a simple "increase in transmission capacity of the pipeline" as the commentor suggests, that could be performed within the existing right-of-way. Based on FERC staff's experience inspecting hundreds of pipeline projects across the United States, including the Northeast region, safely constructing a 42-inch diameter pipeline, such as the replacement that would occur in New York, necessitates the identified construction right-of-way widths.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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Recommendations

- CO21-32 The entire ROW should be re-checked for small wetlands. All wetlands on the ROW should be delineated (and prior delineations checked) and assessed by an independent wetland scientist, and the federal, state, and local status of all wetlands determined or re-determined. It is the responsibility of the applicant (AIM) to accurately address the jurisdictional status of these wetlands. Wetland delineations are commonly subject to error that results in small wetlands being entirely overlooked, or wetlands being delineated at a smaller size than actual wetland size. Even delineated wetlands that have been checked by the U.S. Army Engineers or the New York State Department of Environmental Conservation are subject to such errors. AIM activities must comply with any local wetland laws as well as with federal and state wetlands regulations.
- CO21-33 The ROW should not be widened, and equipment should not be run off the existing ROW. AIM should be able to increase the capacity of the pipeline within the existing ROW. Because many gas pipelines are planned, under construction, or being upgraded in New York and other states, the AIM project will set a precedent for other pipeline projects. Furthermore, there is an issue of cumulative environmental
- CO21-34 impacts from the network of pipelines under construction or upgrading, or proposed for construction or upgrading. There may be local tree ordinances that require mapping, identification, and measurement of
- CO21-35 trees proposed to be removed, and applications for local permits.
- A thorough survey of vascular flora (higher plants) should be conducted throughout the ROW and all adjacent areas that may be disturbed by clearing, siltation or other impacts. This work should be conducted by experienced, independent botanists. The purpose is to identify and record the locations of all the flora so that construction and restoration can be managed successfully with minimal impact on native plant populations and minimal facilitation of the spread of nonnative plants. In my brief survey and assessment I was not able to conduct a comprehensive species survey nor record highly accurate locations, but I found a number of species of sedges and other native plants that were not reported in the AIM DEIS.
- CO21-36 Thorough surveys should be conducted of butterflies and dragonflies using the ROW since there is evidence of potentially important diversity and abundance in these groups of organisms. There may also be rare species that I did not detect in my limited field time. These surveys should be conducted by experienced independent biologists.
- CO21-37 Native plants should be salvaged from the ROW for restoration after construction. The small wetlands on the ROW may be recreated after construction using the salvaged plant material (re-created wetlands will need to be monitored and managed by hand-pulling of undesirable nonnative plants). The most important native plants include the sedges, spike-rushes, bulrushes, milkweeds (all species), Indian-hemp, New Jersey tea, and native roses. Bush's sedge, narrow-leaved sedge, and any other native plants currently ranked S1, S2, or S3 by the New York Natural Heritage Program should have the highest priority. The dodder(s) should be identified by an expert botanist in August when they are in flower and any S1, S2, or S3 dodder(s) added to the priority salvage list. Hudsonia has successfully salvaged and replanted field dodder (*Cuscuta pentagona*) by excavating, storing, and replanting live host plants at a landfill capping project in James Baird State Park, Dutchess County (unpublished report and updates to

CO21-32 See the response to comment CO21-7.

CO21-33 See the response to comment CO21-31.

CO21-34 Several planned or proposed projects are addressed in the cumulative impact assessment in section 4.13 of the EIS. See also the responses to comments FA3-5, and LA23-16.

CO21-35 See the responses to comments CO3-8 and CO21-11.

CO21-36 Comment noted. Algonquin consulted with the NYSDEC New York Natural Heritage Program regarding the documented occurrences of state protected species, the NYSDEC Bureau of Wildlife, and the FWS to plan and coordinate the appropriate protected and sensitive species surveys for the Project.

CO21-37 As part of the FERC Procedures, Algonquin would consult with the appropriate federal or state agencies to develop a project-specific wetland restoration plan. The restoration plan would include measures for re-establishing herbaceous and/or woody species, controlling the invasion and spread of noxious weeds, and monitoring the success of the revegetation and weed control efforts. If native plant salvage is possible for a specific wetland crossing it would be addressed by the appropriate agencies in this plan.

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CO21-37
(cont'd) New York State Office of Parks, Recreation, and Historic Preservation). Creating or recreating wetlands requires considerable expertise in hydrology, soil science, and botany.

CO21-38 Certain nonnative weeds should be removed from the ROW before construction to prevent their being spread on the ROW and from the ROW into adjoining natural habitats. Japanese spiraea (*Spiraea japonica*), nonnative viburnums (*Viburnum* species), and black swallowwort (*Cynanchum louiseae*) are high priority species for removal. Removal should be effected without use of herbicides which would be a threat to rare and common native plants and probably animals as well. Moreover, a large storm could carry herbicide residues into the New York City water supply system. *Phragmites* and purple loosestrife are not harmful in this situation and do not need to be controlled unless they spread to the point of overgrowing uncommon or rare native plants. Stiltgrass is so abundant and readily spread that it is likely impossible to control. TRC (2014) included a management plan for nonnative weeds which needs further adaptation to the local situation.

CO21-39 AIM funds should be put into escrow for a full-time independent environmental monitor administered by, e.g., the town CACs or the New York City Department of Environmental Protection. This individual would monitor siltation control, equipment (to make sure it stays on the ROW), the appropriate procedures for salvaging and restoring native plants, and other environmental practices. It is not adequate for construction and restoration to be monitored only by the Applicant's consultants. There should also be compliance bonding to ensure remediation or restoration if damage occurs, and to ensure that permit conditions are met.

CO21-40 Wetland mitigation, if required, should not include "enhancing" or "restoring" existing wetlands by means of "invasive" plant control. Such projects rarely achieve significant biodiversity maintenance or enhancement, and are usually temporary (i.e., they revert after several years). Instead, appropriate hydrology, soils and plant assemblages should be created (and maintained indefinitely) for specific rare or uncommon native biota known to occur in or near the project area.

Acknowledgments

Melissa Fadden assisted with field work. Gretchen Stevens and Laura Lukas (Hudsonia) and Robert Naczi (New York Botanical Garden) assisted with plant identification.

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- CO21-38 Section 4.5.3 of the EIS provides a description of the noxious weeds documented along the Project rights-of-way. Algonquin would implement its Invasive Plant Species Control Plan to address the spread of invasive plants within the Project rights-of-way and control invasive populations that might prevent successful revegetation. Algonquin has indicated that as a matter of course, it does not use herbicides/pesticides for general right-of-way vegetation maintenance practices along any of its pipeline facilities.
- CO21-39 See the response to comment SA4-16.
- CO21-40 Compensatory mitigation for impacts on wetlands resulting from Project construction are described in section 4.4.5 of the EIS. Final wetland mitigation would be determined through the CWA permitting process in consultation with the USACE, NYSDEC, and CTDEEP. See also the response to comment FA3-3.

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TECHNICAL MEMORANDUM

To: Kimberly Bose (Secretary, Federal Energy Regulatory Commission); Jodi McDonald (Chief Regulatory Officer, United States Army Corps of Engineers)

From: Mr. Rahul Verma, P.E.

CC: Dr. Marian Rose, Mr. James Bacon, Esq.

Date: September 29, 2014

Re: CWCWC Engineering Comments Draft Environmental Impact Statement for Algonquin Incremental Market Project (FERC Docket #CP14-96-000 & USACE Public Notice NAN-2014-00402-EYA)

I have reviewed the Draft Environmental Impact Statement (DEIS) for the Algonquin Incremental Market (AIM) Project, docket No. CP14-96-000, as made available by the Federal Energy Regulatory Commission (FERC) and several supporting documents made available on the FERC website. I provide the following comments, which are submitted to supplement comments provided by Mr. James Bryan Bacon, Esq., on behalf of CWCWC.

COMMENT #1:

Portions of the AIM project are located in the New York City (NYC) East of Hudson (EOH) watershed. The EOH is a phosphorus restricted watershed, and projects in the EOH watershed are subject to a number of regulations to reduce the phosphorus loading to reservoirs and other surface waters in the watershed. The NYC Department of Environmental Protection (NYCDEP) has implemented multi-million dollar septic and wastewater treatment plant upgrade program. The NYSDEC Municipal Separate Storm Sewer System (MS4) permit require a stormwater retrofit program, which has been implemented by the MS4 communities via the East of Hudson Watershed Corporation (EOHWC). The proponents of this AIM project should not ignore the regulations that required those programs, nor consider it exempt from those regulations.

Several portions of the AIM project include removal of wetland vegetation and excavation of approximately 17,000 cubic yards of wetland soils. Wetlands have been documented as sinks for various chemicals and nutrients, including phosphorus. Discharge of phosphorus from wetlands occurs under natural flux conditions, however occurs at greater rates/quantity when the wetland is disturbed by either natural occurrences (e.g. high flowrates) or man-made occurrences (e.g. excavation). Of particular concern is the mobilization of dissolved reactive phosphorus (DRP), which is the bioavailable form of phosphorus that may have significant impact on downstream water quality.

CO21-41 See the response to comment CO21-15.

CO21 – Community Watersheds Clean Water Coalition, James Bryan Bacon (cont'd)

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CO21-41 (cont'd)	<p>Wetlands are unique ecosystems in that the soil chemistry varies and impacts the treatment abilities of the wetland. Anoxic (oxygen-poor) conditions exist in wetland soils, and this condition promotes phosphorus removal from the water column, binding phosphorus to the soil particles. Excavation of wetland soils, and storage adjacent to the excavation, will likely cause oxygenation of the wetland soils, resulting in a change in soil chemistry by eliminating the anoxic condition, and cause phosphorus release.</p> <p>Excavation of wetlands and the associated dewatering of the wetland is not addressed nor mitigated in the AIM design. As the trench is excavated in the wetland soil, and the excavation remains open, the adjacent wetland soils will be naturally dewatered, and removal of this water from the excavation will further exacerbate the loss of nutrients from the wetland site and transport to downstream receptors.</p>
CO21-42	<p>The use of fabric "silt-fence" as a sediment barrier is insufficient, as this practice has been documented to be of limited efficacy to restrict transport of fine sediment particles, and is designed to allow water to flow either through or around the fence, thus allowing discharge of DRP. The schematic plans show silt fence locations, and excavated trench spoil storage areas, however the notes indicate that those areas are shown for illustration only. The applicant should be able to provide a site-specific design for the wetland excavation areas, and evaluate other best- management practices (BMPs) for wetland spoils- possibly including watertight containers or alternative construction methods.</p>
CO21-43	<p>The DEIS states that there is no significant impact from these actions, however does not provide a pollutant loading analysis, details on how the excavated wetland soils will be contained, or evaluate the changes to the soil chemistry and the impact on pollutant discharge. Thus the DEIS is incomplete until these issues are evaluated and addressed in the revised design.</p>
CO21-44	<p>COMMENT #2: Section 4.3.2.5 indicates that a significant volume of potable water (approximate 10 million gallons) will be used for testing. This raises several concerns:</p> <p>2a: Where will this water come from and can the municipal sources provide that volume without impact to their customers, emergency demand, or water sources?</p> <p>2b: The DEIS indicates that the source of test water will be from the municipal systems, which is commonly chlorinated. What is the impact of discharging this volume of chlorinated water to a natural stream ecosystem?</p> <p>2c: Where will this water be held during testing? What testing will occur?</p> <p>2d: The DEIS indicates that the water will be allowed to infiltrate to replenish groundwater resources, however does not include any infiltration system design or permitting, nor describe what, if any, infiltration testing has been completed to support the required infiltration rate for a discharge of 1,000-1,200 gallons per day.</p>
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CO21-42

See the response to comment CO21-14.

CO21-43

See the responses to comments CO21-14, CO21-16, and LA26-14.

CO21-44

2a - The majority of water used would be obtained from municipal sources with the exception of Old Verplanck Quarry Lake. Algonquin would consult with local municipal water suppliers prior to construction to ensure that water needs for hydrostatic testing would not impact customer use.

2b - Hydrostatic test water obtained from municipal sources within the Croton watershed would likely come from the Northern Westchester Joint Waterworks. This facility supplies municipal drinking water to the Town of Cortlandt. Based on the 2013 Water Quality Report for the Town of Cortlandt, the municipal drinking water contained an average chlorine residual of 0.32 mg/L. As described in Table 4.3.2-4 in the EIS, hydrostatic test water that would likely be obtained from municipal sources for the portions of the Project within the Croton watershed could range up to 4,734,559 gallons. Discharge of the hydrostatic test water would occur through discharge structures designed to provide filtration of particulate matter followed by discharge to well vegetated upland areas for infiltration to the ground and indirect discharge to nearby waterbodies following additional filtration accomplished by overland flow across additional well vegetated areas. The NYSDEC will require a SPDES permit for hydrostatic test water discharge, ensuring that the receiving water quality criteria are met while discharging chlorinated waters. In the environment, chlorine is neutralized upon reaction with air, sunlight and other contacting surfaces. The chlorine concentration in stored water gradually decreases with time due to aeration, reaction with sunlight/surfaces of holding tanks. Furthermore, chlorine readily reacts with organic and inorganic impurities in soil, paved surfaces, water and wastewater. Therefore, disposal of chlorinated water passively by discharge through holding time in the test section, discharge structures and then release to vegetated soil surfaces is expected to dissipate chlorine to achieve regulatory discharge limits prior to reaching receiving waters.

2c: Hydrostatic test water discharge permits typically require grab sampling of test water as it is discharged. Analysis of the discharge samples typically includes pH, oil and grease, dissolved oxygen, and total suspended solids.

2d: Site-specific designs for hydrostatic test water discharge may be included in the SPDES permit required for the Project by NYSDEC. The EIS is not a permitting document. It is a summary document that provides decision makers with sufficient information to decide if, from an environmental perspective, the Project may be approved. In addition to the EIS, the SPDES permit that needs to be obtained to construct the Project would provide the specific mitigation measures required to support the issuance of the permit.

2e: The flow rate of the discharge would be adjusted as needed to allow the discharge/filtration structures to perform as required. The discharge volume from hydrostatic testing of the pipeline segments in the East of Hudson drainage would be less than that of a typical 1 year return period storm of 30 minutes duration. The SPDES permit required by the NYSDEC would likely address discharge conditions and capacity of receiving waters. Continued on next page.

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CO21-44 (cont'd) 2e: Discharge of this volume of water to the ground surface is of concern, as is the seeming lack of rate control. What is the existing conveyance capacity of the receiving water bodies, and their ability to assimilate at least an additional 2.2 cubic feet per second (conversion of 1,000 GPD) to the baseflow conditions (i.e. flow depth, temperature, turbidity, velocity, etc.)

2f: The DEIS indicates that typical designs for the discharge and dewatering structures are provided. Given the relatively few discharge locations, volume of water being discharged, and regulatory concerns in the EOH watershed, site-specific designs should be provided, along with a list of conditions for allowing or stopping discharge (e.g. lack of baseflow, expected rain event, etc.).

2g: Consider other testing methods, including pressurized air or inert gas, which will require substantially less resources and result in less impact from the discharge. If not feasible, provide an explanation.

CO21-45 COMMENT #3:
 Figure #18, Dwg ES-0018- Dewatering structure for hydrostatic testing- Attachment A, Response 3: straw bales come rectangular, not tapered as shown, thus this cannot be built as shown.

CO21-46 COMMENT #4:
 The applicant should provide an explanation for placing the transition between the 42-inch and 26-inch pipeline within the East of Hudson watershed, and why this transition cannot be located outside of the East of Hudson watershed. Locating this transition outside of the East of Hudson watershed, and using the existing 26-inch pipeline within the watershed, would eliminate impact to several natural resources, as described in these comments and comments provided by others.

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CO21-44

CO21-44 continued

2f: Site-specific designs for hydrostatic test water discharge may be included in the SPDES permit required for the Project by NYSDEC.

2g: Pipeline safety regulations make provision for the use of compressed air or inert gas to pressure test pipelines. Hydrostatic testing is the long-standing method employed for pressure testing new natural gas transmission pipelines due to the readily available sources of test water, the ease and safe handling of the test media (compared with inert gasses or compressed air), and the cost-effectiveness of the method. In addition, the use of hydrostatic testing increases the likelihood of locating construction defects because leaking water is easier to track than air or inert gasses.

CO21-45

Comment noted.

CO21-46


See the response to comment CO21-22.

**CO21 – Community Watersheds Clean Water Coalition, James
Bryan Bacon (cont'd)**

The attachments to this letter are too voluminous to include in this EIS. They are available for viewing on the FERC website at <http://www.ferc.gov>. Using the "eLibrary" link, select "General Search" from the eLibrary menu, enter the selected date range and "Docket No." excluding the last three digits (i.e., CP14-96-000), and follow the instructions. For assistance please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at 1-866-208-3676, or for TTY, contact 202-502-8659. The Category/Accession number for this submittal is 20140929-5204.

CO22 – Riverkeeper, New York’s Clean Water Advocate

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September 29, 2014

VIA ELECTRONIC FILING

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

Re: Comments on Algonquin Incremental Market Project Draft Environmental Impact Statement, Docket No. CP 14-96-000

Dear Secretary Bose:

Riverkeeper, Inc. (Riverkeeper) submits the following comments on the Draft Environmental Impact Statement (DEIS) for the Algonquin Incremental Market Project (AIM Project or Proposed Project), Docket No. CP 14-96-000. The DEIS was made available via notice of the Federal Energy Regulatory Commission (FERC or Commission) dated August 6, 2014.


Riverkeeper is a member-supported watchdog organization dedicated to defending the Hudson River and its tributaries and protecting the drinking water supply of nine million New York City and Hudson Valley residents. Riverkeeper is actively involved in public education, advocacy, and litigation surrounding the issue of shale gas extraction and related infrastructure, particularly because of the potential impacts on New York State's drinking water supplies.

CO22-1 For the reasons set forth below, the DEIS fails to comply with the requirements of the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4231 et seq., in several significant respects, and must be revised and reissued for public review and comment. These deficiencies include: 1) incomplete information; 2) inadequate evaluation of impacts to water resources; 3) failure to include consideration of the Atlantic Bridge Project, which impermissibly segments environmental review; and 4) failure to provide a comprehensive analysis of cumulative impacts. Further, a number of additional mitigation measures related to water resources, as well as public disclosure of all construction and post-construction information related to the AIM Project, should be evaluated and included in a revised DEIS.

I. Background

The AIM Project spans four states and involves the replacement and expansion of approximately 37 miles of the existing Algonquin pipeline system, the upgrade of multiple

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CO22-1

We disagree. The EIS includes an extensive analysis of cumulative impacts, considering several other projects, Marcellus shale activities, other FERC jurisdiction projects, and growth-inducing impacts. The draft EIS also specifically identified the Atlantic Bridge Project, and provided a cumulative impacts analysis based on the available data at the time of issuance. See also the response to comments FA3-5, FA4-1, SA1-12, and CO21-24.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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compressor stations, and the upgrade of existing and construction of new metering and regulating stations along the pipeline route. In New York, the project involves the take up and relay of more than 13 miles of pipeline, replacing the existing 26 inch pipe with a 42 inch pipe, approximately 2 miles of new pipeline, and a new Hudson River crossing. The New York portion of the AIM Project also includes the upgrade of 2 compressor stations and 2 metering and regulating stations. In all, the Proposed Project involves 39 waterbody crossings, 77 wetland crossings, and disturbance of approximately 24 acres of wetlands in New York.

The majority of the New York portion of the Proposed Project is located within the Hudson River watershed, while approximately 2 miles of pipeline replacement and the expansion of the Southeast Compressor Station are located within the New York City (NYC) drinking water supply watershed, which provides drinking water for 9 million New Yorkers. Specifically, portions of the AIM Project are located within the sensitive Croton watershed, part of the East of Hudson NYC watershed, where drinking water supply reservoirs are already impaired for phosphorus and must be carefully protected in order to avoid further degradation.¹

CO22-2 Algonquin Gas Transmission, LLC (Algonquin or Applicant) submitted an application to FERC for a Certificate of Public Convenience and Necessity on February 28, 2014, following a pre-application and scoping process. Riverkeeper submitted comments regarding the scope of the DEIS on October 15, 2013² and on the application for a Certificate of Public Convenience and Necessity on April 8, 2014.³ In those comments, Riverkeeper identified a number of issues of concern regarding water quality and urged FERC to take a hard look, as required by NEPA, at the Proposed Project’s likely impacts on both the Hudson River and NYC watersheds, as well as potential cumulative impacts.

II. The DEIS Fails to Provide the “Hard Look” at Environmental Impacts Required by NEPA.

Pursuant to NEPA, federal agencies must take environmental considerations into account in their decision-making “to the fullest extent possible.” 42 U.S.C. § 4332. Prior to approving any “major federal action significantly affecting the quality of the human environment,” federal agencies must comprehensively evaluate environmental impacts, including adverse environmental effects and the means of preventing them, in a “detailed statement.” *Id.* § 4332(2)(C). NEPA requires federal agencies to “take a ‘hard look’ at environmental consequences” and “provide for broad dissemination of relevant environmental information.”

¹The Proposed Project sites in the New York City (NYC) watershed drain to the New Croton Reservoir and the East Branch Reservoir, both of which are subject to a Total Maximum Daily Load for phosphorus. See New York State Department of Environmental Conservation (NYSDDEC), Phase II Phosphorus Total Maximum Daily Loads for Reservoirs in the New York City Water Supply Watershed (2000), available at: http://www.dec.ny.gov/docs/water_pdf/nyeiune2000.pdf.

²Riverkeeper Comments Regarding Scope of the Environmental Impact Statement for the Algonquin Incremental Market Project, Docket No. PF 13-16-000 (filed Oct. 15, 2013) (Scope Comments), incorporated fully by reference herein.

³Riverkeeper Comments on Abbreviated Application of Algonquin Gas Transmission, LLC for Certificate of Public Convenience and Necessity, Docket No. CP 14-96-000 (filed Apr. 8, 2014) (Application Comments), incorporated fully by reference herein.

CO22-2 Comment noted.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 350 (1989) (internal citations omitted).

The public availability of information regarding the environmental impacts of a proposed action is central to NEPA, which requires agencies to make “high quality” information available to “public officials and citizens *before* decisions are made and *before* actions are taken.” 40 C.F.R. § 1500.1(b) (emphases added). Accordingly, “public scrutiny [is] essential to implementing NEPA.” *Id.* The preparation of an environmental impact statement (EIS) serves this mandate by “provid[ing] a springboard for public comment,” as NEPA “guarantees that the relevant information [concerning environmental impacts] will be made available to the larger audience that may also play a role in the decisionmaking process and the implementation of the decision.” *Robertson*, 490 U.S. at 349. The opportunity for public participation guaranteed by NEPA ensures that agencies will not take final action until after their analysis of the environmental impacts of their proposed action has been subject to public scrutiny. In situations where “data is not available during the EIS process and is not available to the public for comment . . . the EIS process cannot serve its larger informational role, and the public is deprived of their opportunity to play a role in the decision-making process.” *N. Plains Res. Council v. Surface Transp. Bd.*, 668 F.3d 1067, 1085 (9th Cir. 2011).

In addition, an EIS must fully disclose and evaluate the complete range of environmental consequences of a proposed action, including “ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, [and] cultural” impacts, “whether direct, indirect, or cumulative.” 40 C.F.R. §§ 1502.16(a), (b); 1508.8. As an “environmental full disclosure law,” *Monroe Cnty. Conservation Council, Inc. v. Volpe*, 472 F.2d 693, 697 (2d Cir. 1972), NEPA “ensures that an agency will not act on incomplete information, at least in part, by ensuring that the public will be able to analyze and comment on an action’s environmental implications.” *Ohio Valley Envtl. Coal. v. U.S. Army Corps of Eng’rs*, 674 F. Supp. 2d 783, 792 (S.D. W. Va. 2009) (internal quotation marks and citations omitted).

CO22-3 If a DEIS “is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft.” 40 C.F.R. § 1502.9(a). As discussed below, the DEIS falls far short of the standards prescribed by NEPA such that it precludes meaningful analysis of the environmental impacts of the Proposed Project, and must be revised and reissued for public review and comment.

A. The DEIS is Incomplete.

In Section 5.2 of the DEIS, Staff’s Recommended Mitigation, and throughout the DEIS, FERC identifies dozens of pieces of missing information and asks the Applicant to submit various documents either prior to the end of the comment period on the DEIS or prior to construction. The list of missing information includes, but is not limited to:

CO22-4 → Site-specific crossing plan for the Catskill Aqueduct.⁴ (Recommended Mitigation #14; DEIS Section 4.3.2.1)

⁴ Draft Environmental Impact Statement for the Algonquin Incremental Market Project (Aug. 2014) (DEIS) at 5-21.

CO22-3 See the response to comment FA4-1.

CO22-4 See the response to comment SA11-9.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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- CO22-5 | → Additional details regarding minimization of trench dewatering in New York.⁵ (Recommended Mitigation #16; DEIS Section 4.3.2.6)
- CO22-6 | → Revised site-specific crossing plans incorporating additional avoidance or mitigation measures for two vernal pools in New York.⁶ (Recommended Mitigation #17; DEIS Section 4.4.3.2)
- CO22-7 | → Site-specific information regarding the location of wetlands the Applicant believes would meet criterion for non-saturated conditions at the time of construction.⁷ (Recommended Mitigation #18; DEIS Section 4.4.4)
- CO22-8 | → Final Compensatory Wetland Mitigation Plan.⁸ (Recommended Mitigation #19; DEIS Section 4.4.5)
- CO22-9 | → Documentation that the Hudson River crossing is consistent with New York coastal policies.⁹ (Recommended Mitigation #28; DEIS Section 4.8.4.1)
- CO22-10 | → Final AC/DC interference study for the West Point Transmission Project and any additional mitigation to address safety related concerns.¹⁰ (Recommended Mitigation #41; DEIS Section 4.12.3)
- CO22-11 | → Final conclusions regarding potential safety-related conflicts with Indian Point Energy Center following completion of a Hazards Analysis by Entergy and, if additional mitigation is required, a site-specific construction and mitigation plan.¹¹ (Recommended Mitigation #42; DEIS Section 4.12.3)
- CO22-12 | → Site-specific plan for Harriman State Park, including additional avoidance or mitigation measures.¹² (DEIS Section 4.6.1.5)
- CO22-13 | Riverkeeper agrees with FERC that the information identified above and in Section 5.2 of the DEIS is necessary in order to determine the Proposed Project’s environmental impacts and that it must be submitted by the Applicant as soon as possible. It must also be included in a revised DEIS so that it may be reviewed and evaluated by the public and other interested agencies and government bodies. FERC may not base its decision regarding environmental impacts from the Proposed Project on an incomplete environmental impact statement, nor may it circumvent the public review process by relying on an incomplete DEIS. In order to comply with NEPA, all information identified by FERC as missing from the DEIS must be prepared and

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 5-22.

¹⁰ *Id.* at 5-25.

¹¹ *Id.*

¹² *Id.* at 4-90.

CO22-5 See the response to comment SA11-10.

CO22-6 See the response to comment LA23-24.

CO22-7 The EIS, including appendix K, has been revised to include the new information provided on saturated and non-saturated wetlands.

CO22-8 See the response to comment FA3-3.

CO22-9 See the response to comment SA1-6.

CO22-10 See the response to comment SA7-4.

CO22-11 See the response to comment FA4-25.

CO22-12 Impacts on Harriman State Park and the identified mitigation measures to reduce those impacts (e.g., avoidance of active public facilities, completion of a tree inventory, etc.) are described in sections 4.6.1 and 4.8.5 of the EIS. As explained in section 4.6.1.5 EIS, Algonquin continues to consult with the NYSOPRHP and PIPC to address impacts on Harriman State Park. Appropriate requirements associated with Algonquin's proposed construction and operation of facilities in Harriman State Park would be addressed through this consultation prior to construction. In this section of the EIS, FERC staff has recommended that Algonquin file with the Secretary, for review and approval of the Director of OEP, a site-specific plan for Harriman State Park, including any avoidance or mitigation measures developed with the NYSOPRHP and PIPC. See also the response to comment CO3-8.

CO22-13 See the responses to comments FA4-1 and SA1-12.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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CO22-13
(conf d) submitted as soon as possible, and included and evaluated in a revised DEIS that is subsequently made available for public review and comment.

B. The Analysis of Impacts to Water Resources is Inadequate.

Several issues related to potential impacts on water resources are either inadequately evaluated in or completely missing from the DEIS. As with the missing pieces of information identified by FERC, discussed in section II.A, above, these must also be addressed in a revised DEIS.

CO22-14

1. The DEIS fails to address impacts and mitigation measures related to wetland buffers.

The applicant proposes to mitigate unavoidable, construction-related impacts to wetlands by implementing specific wetland protection and restoration measures listed in the DEIS.¹³ However, there is no direct consideration of wetland buffers and the only indirect consideration is the proposal to locate additional temporary workspace (ATWS) “at least 50 feet from wetland boundaries except where site-specific conditions warrant otherwise and FERC approval has been obtained...”¹⁴

The preservation and maintenance of buffer areas is critical to the protection of wetlands from construction activities and post-development stormwater runoff. Vegetated wetland buffers provide transitional areas that intercept stormwater from upland habitat before it reaches wetlands or other aquatic habitat. Buffers therefore maintain or improve water quality by trapping and removing various nonpoint source pollutants. Other water quality benefits of buffer zones include reducing thermal impacts (providing shade), nutrient uptake, infiltration, reducing erosion, and restoring and maintaining the chemical, physical and biological integrity of water resources. One hundred feet is considered the minimum buffer width recommended for water quality protection.¹⁵

Construction-related activities, including the establishment of ATWS, within 50 feet of wetlands not only pose threats to water quality but are subject to regulation at the state and local level, highlighting the importance of protecting buffer areas. The New York State Department of Environmental Conservation (NYSDERC) regulates activities within 100 feet of state wetlands.¹⁶ In the New York City Watershed, the Towns of Cortlandt¹⁷ and Yorktown¹⁸ also regulate activities within 100 feet of local wetlands, as does the New York City Department of Environmental Protection (NYCDEP).¹⁹ Nevertheless, the DEIS proposes construction activities within 50 feet of regulated wetlands and plans to request FERC approval for encroachment to

¹³ *Id.* at 4-61.

¹⁴ *Id.*

¹⁵ SCHUELER, T., SITE PLANNING FOR URBAN STREAM PROTECTION, Metropolitan Washington Council of Governments (1995), 111.

¹⁶ See N.Y. E.C.L. § 24-0701(2).

¹⁷ See Town of Cortlandt Town Code, Chapter 179, Freshwater Wetlands, Water Bodies, and Watercourses.

¹⁸ See Town of Yorktown Town Code, Chapter 178, Freshwater Wetlands.

¹⁹ See e.g., Rules of the City of New York, Title 15, Chapter 18 § 18-39.

CO22-14

Wetland impacts, including impacts on wetland buffer areas, would be mitigated through implementation of Algonquin’s E&SCP, and the conditions of CWA permits that may be issued for the Project. Following construction, the right-of-way would be revegetated to restore vegetated buffers at wetlands disturbed by the Project. Additionally, where topographic conditions warrant, permanent erosion and sediment control measures would be installed along the right-of-way to reduce stormwater velocity, reduce sediment concentrations, and redirect stormwater to well vegetated, upland areas adjacent to the right-of-way, thereby reducing the potential for sedimentation and nutrient loading effects on wetlands. Algonquin’s E&SCP and our Procedures require post-construction restoration of vegetation as well as monitoring of the success of those restoration measures. Additionally, it is anticipated that any CWA permits issued for the Project would also include conditions requiring restoration of wetland communities and upland buffers.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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CO22-14
(cont’d) less than 50 feet for 23 existing wetlands within the project right of way (ROW).²⁰ Eleven of the proposed additional encroachments abut the wetland itself. While the DEIS claims these additional encroachments are necessary to create extra workspace for saturated soils and spoil storage, there is no analysis of the potential impacts to buffers or their associated wetlands due to the proposed wide-scale and intrusive disturbance from these construction activities.

Nor is there any mitigation proposed for impacts to wetland buffers. Although the DEIS proposes compensatory mitigation for wetland disturbances at a 2:1 ratio, it fails to demonstrate that the proposed ratio will result in the successful establishment of even a 1:1 ratio of wetlands when their buffers have been disturbed to within 0-50 feet of their delineated boundaries. As discussed earlier, buffers insulate wetlands from nutrient loading and other impacts, so impairing those functions will also impair the ability of the disturbed wetland to be restored.

For the above reasons, the DEIS must include an analysis of the impacts of proposed wetland buffer disturbances from construction activities, and must further propose mitigation measures for impacts. At a minimum, the applicant should restore disturbed wetland buffer areas to their natural grade and configuration, plant them with native vegetation, and monitor them for the successful establishment of plant communities. Unless the applicant can demonstrate that impacts to buffers can be avoided, minimized or adequately mitigated, FERC, NYSDEC and local municipalities should deny any requests for variances allowing further encroachment on and adverse impacts to wetland buffers, and require that the Proposed Project be revised to comply with state and local regulations regarding disturbance within 100 feet of regulated wetlands.

2. *The DEIS fails to evaluate potential significant impacts from stormwater runoff.*

CO22-15 The DEIS fails to include a meaningful evaluation of the impacts from increased stormwater runoff due to construction activities and long-term changes in surface drainage patterns caused by the Proposed Project. Rather, the DEIS merely mentions stormwater plans and management in passing, and, for the New York portions of the Proposed Project, references a Stormwater Pollution Prevention Plan (SWPPP) that has not been included in the DEIS.²¹

When construction activities remove vegetation and expose soils, forest canopies no longer intercept stormwater and root systems no longer hold soils in place. Stormwater runoff from construction sites may carry pollutants – such as debris, oil and other contaminants from equipment, and any herbicides used for vegetation clearing or ROW maintenance – from the project site to downstream wetlands, streams, and other waterbodies.²² Construction site runoff

²⁰ DEIS at 4-67 – 68.

²¹ Riverkeeper notes that on September 2, 2014 we received a copy of the Stormwater Pollution Prevention Plan (SWPPP) for the New York portions of the project from the Applicant, who requested feedback by October 1, 2014. We are currently reviewing the SWPPP and will provide comments under separate cover. However, this does not remedy FERC’s failure to evaluate stormwater impacts, including providing a copy of the SWPPP, in the DEIS.

²² U.S. Environmental Protection Agency (EPA), Stormwater Discharges from Construction Activities, available at: <http://cfpub.epa.gov/npdes/stormwater/const.cfm>.

CO22-15 See the responses to comments FA4-4, SA14-1, and CO21-16.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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CO22-15
(cont'd) can also erode exposed soils and transport sediment to receiving waters.²³ Suspended sediment in aquatic systems degrades aquatic wildlife habitat, reduces species diversity and damages commercial and recreational fisheries.

In addition, nutrients and toxic materials, including pesticides, industrial wastes, and metals, can bind to silt and clay particles that runoff transports to waterbodies. Sediment particles also shield pathogenic microorganisms such as *Giardia* and *Cryptosporidium* from detection, which can result in waterborne disease outbreaks. Long-term changes in hydrology and surface drainage patterns may also result from construction activities, particularly in areas, such as steep slopes, where changes in ground cover and topography can increase stormwater runoff, reduce the ability of natural systems to filter pollutants, and permanently alter drainage patterns.²⁴

Consideration of impacts from stormwater runoff is important throughout the project, particularly so within the NYC watershed. As noted above, the NYC watershed provides drinking water to 9 million New Yorkers daily, and the Proposed Project is located within a sensitive portion of the East of Hudson NYC watershed that is already impaired and subject to enhanced water quality protection criteria. Riverkeeper raised the importance of evaluating stormwater impacts from the Proposed Project and requested inclusion of the SWPPP in the DEIS in previous comments to FERC on the scope of the DEIS and on the project application.²⁵ In a letter to the Applicant dated April 10, 2014, FERC also requested that the Applicant provide a copy of the SWPPP in preparation for the DEIS;²⁶ however, none has been included.

In order to protect against water quality degradation that may potentially result from stormwater runoff, FERC must include a full analysis of potential stormwater impacts, including a complete SWPPP, in a revised DEIS. This analysis must include a description of how the pipeline construction schedule will be phased to coordinate with control measures contained in the SWPPP, as well as a consideration of alternative construction practices that can be used to avoid or reverse soil compaction and thereby prevent runoff volume.

3. The DEIS must include a detailed evaluation of likely impacts and mitigation measures for the 2 vernal pools located within the Hudson River watershed.

CO22-16 The DEIS lists 2 vernal pools in New York, located within the Hudson River watershed in the Town of Cortlandt, that will be directly affected by construction of the Proposed Project.²⁷ In all, construction will directly impact nearly 2,000 square feet of vernal pool habitat. While the DEIS notes that, in general, vernal pools “provide habitat for many species” and that rare species are known to use vernal pools in the project area, there is no discussion or evaluation of the

²³ EPA, Construction Site Management Measure III, Construction Activities (last visited Sep. 29, 2014), available at: <http://water.epa.gov/polwaste/nps/czara/chd-3a.cfm>.

²⁴ NYSDEC, New York Standards and Specifications for Erosion and Sediment Controls (Aug. 2005) at 1.3, available at: www.dec.ny.gov/docs/water_pdf/bluebook.pdf.

²⁵ Scope Comments at 4-5; Application Comments at 2-3.

²⁶ Federal Energy Regulatory Commission, Letter to Mr. Berk Donaldson, Director, Rates and Certificates NE, Spectra Energy Corporation, Re Environmental Data Request – Part I (Apr. 10, 2014).

²⁷ DEIS at 4-63, Table 4.4.3-2.

CO22-16 See the response to comment LA23-24.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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CO22-16
(conf'd) potential impacts upon the 2 vernal pools that would be directly affected by construction. In fact, as noted above in section II.A, the DEIS is missing final, site-specific crossing plans and avoidance and/or mitigation measures for these 2 vernal pools, which FERC has requested from the Applicant.

All information regarding site-specific crossing plans and avoidance and/or mitigation measures must be submitted by the Applicant as soon as possible and included in the DEIS. In addition, the DEIS must include a comprehensive, site-specific evaluation of the potential impacts to these 2 vernal pools. This must include a bioassay survey to determine the specific kinds of wildlife supported by each vernal pool, as well as discussion of restricted construction windows for pools that are assumed to support amphibians in the spring and fall. Without this information, FERC cannot assess the potentially significant impacts to these sensitive resources.

4. The DEIS must evaluate potential impacts to the Ramapo River Basin Aquifer System.

CO22-17 The Proposed Project would cross approximately 0.6 mile of the Ramapo River Basin Aquifer System, a U.S. Environmental Protection Agency (EPA) designated sole source aquifer that serves as the water source for more than 300,000 people in New York and New Jersey.²⁸ Even though EPA notes that the aquifer is “vulnerable to contamination from many sources” and that the “potential exists for incidents of surface water contamination to affect public supply wells,”²⁹ the DEIS includes no meaningful analysis of the AIM Project’s effect on this important resource. Rather, the Ramapo Basin Aquifer is only briefly mentioned before the DEIS concludes, without any real analysis, that the Proposed Project will not significantly impact groundwater resources.

The DEIS’s generic discussion of impacts to groundwater water resources is insufficient. In order to ensure protection of a resource that serves as the sole source of drinking water for hundreds of thousands of people, the DEIS must include an assessment of the specific threats to the Ramapo River Basin Aquifer System and of measures to avoid, minimize, or mitigate those threats. This assessment must include alternatives to construction in the Ramapo Basin Aquifer.

C. FERC Has Impermissibly Segmented Environmental Review by Failing to Include an Evaluation of Algonquin’s Atlantic Bridge Project in the DEIS.

CO22-18 The DEIS must include an evaluation of the Atlantic Bridge Project, which will upgrade and expand additional segments of the Algonquin pipeline system. As with the Proposed Project, the Atlantic Bridge Project will be implemented by the Applicant and involves expansion of the Algonquin pipeline system in portions of New York, Connecticut, Rhode Island, and Massachusetts, with a projected in service date of November 2017. In New York, the Atlantic Bridge Project would cross approximately 4 miles of the East of Hudson NYC watershed, taking up the existing 26 inch pipe and replacing it with a 42 inch pipe, and involve

²⁸ EPA, Ramapo Aquifer Systems (Aug. 1992), available at: <http://www.epa.gov/region2/water/aquifer/ramapo/ramapo.htm>. Note that EPA’s count of population served by the Ramapo River Basin Aquifer Systems is likely highly underestimated, as the document dates to 1992.

²⁹ *Id.*

CO22-17 Section 4.3.1.7 of the EIS has been revised to include additional information on the Ramapo River Basin.

CO22-18 See the responses to comments FA3-5 and CO22-1. We also note that applicants frequently modify the scope of a project in the pre-filing process, while the project is still under development and contracts with customers are still under consideration. Upon filing its application, Algonquin reduced the size of the AIM Project to reflect the facilities needed to support the proposed volumes of natural gas. Similar to the AIM Project, other Algonquin projects in the future may begin the pre-filing process or project development with facilities in common with the AIM Project or that were removed from the AIM Project. However, given the frequency of facility changes during project development before an application is filed, it is speculative to assume that all current Atlantic Bridge facilities or any other future project facilities will exist, as is, should Algonquin file an application.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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CO22-18
(cont'd) an additional upgrade of the Southeast Compressor Station, which is also located within the NYC watershed. Algonquin has completed an open season³⁰ for the project, and “plan[s] to move forward.”³¹

Pursuant to the regulations implementing NEPA, an EIS must include: 1) connected actions, including those that are “interdependent parts of a larger action and depend on the larger action for their justification;” 2) cumulative actions, “which when viewed with other proposed actions have cumulatively significant impacts;” and 3) similar actions, “which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together.” 40 C.F.R. § 1508.25(a). Accordingly, “[a]n agency impermissibly ‘segments’ NEPA review when it divides connected, cumulative, or similar federal actions into separate projects and thereby fails to address the true scope and impact of the activities that should be under consideration.” *Delaware Riverkeeper Network, et al. v. Federal Energy Regulatory Commission*, 753 F.3d 1304, 1313 (D.C. Cir. 2014).

In *Delaware Riverkeeper Network*, the Court found that FERC violated NEPA when it segmented environmental review of four separate proposals by Tennessee Gas Pipeline Company to upgrade different sections of the Eastern Leg of its 300 Line. Finding that the four projects were “certainly ‘connected actions,’” the Court explained:

“There is a clear physical, functional, and temporal nexus between the projects. There are no offshoots to the Eastern Leg. The new pipeline is linear and physically interdependent: gas enters the system at one end, and passes through each of the new pipeline sections and improved compressor stations on its way to extraction points beyond the Eastern Leg. The upgrade projects were completed in the same general time frame, and FERC was aware of the interconnectedness of the projects ... [t]he end result is a new pipeline that functions as a unified whole thanks to the four interdependent upgrades.”

752 F.3d at 1308-1309. The Court went on to dismiss claims that there were logical termini between any of the new upgrade segments or that any possessed substantial independent utility apart from the others, finding that the projects were “inextricably intertwined” as part of the same linear pipeline. *Id.* at 1315-1317.

The Atlantic Bridge Project falls into all three categories of actions that must be evaluated in a DEIS pursuant to 40 C.F.R. § 1508.25(a). First, the Proposed Project and the Atlantic Bridge Project are clearly connected actions, as both are interdependent parts of a larger action: the upgrade of the Algonquin pipeline system. Both projects involve upgrade and

³⁰ The Applicant held an open season to gauge market interest in the Atlantic Bridge Project earlier this year. See Spectra, Atlantic Bridge Project: Open Season Notice for Firm Service February 5, 2014 – March 31, 2014 (last visited Sep. 28, 2014), available at: <https://infopost.spectraenergy.com/GetOLINK/GetLINKdocument.asp?Pipe=10076&Environment=Production&DocumentType=Notice&FileName=Atlantic+Bridge+Project+Open+Season.pdf&DocumentId=8a7842c943fd9190143ff70248c0028>.

³¹ Spectra, New Projects and Our Process: Atlantic Bridge Project (last visited Sep. 25, 2014), available at: <http://www.spectraenergy.com/Operations/New-Projects-and-Our-Process/New-Projects-in-US/Atlantic-Bridge>.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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CO22-18
(cont’d)

expansion of different segments of the Algonquin pipeline system, with several sections of both projects involving the take up of existing 26 inch pipe and replacing it with larger 42 inch pipe. The pipeline is linear, running in a line from New Jersey through New York, Connecticut, Rhode Island, and Massachusetts before branching. Further, the finished projects will function as a unified whole, as they involve replacing and expanding sections of the same linear pipeline system. The projects are also closely connected in time, as the Atlantic Bridge Project’s projected in service date is only one year later than the AIM Project and there will be overlaps in construction.

Second, as discussed in section ILD below, the AIM and Atlantic Bridge Project are cumulative actions, as each would affect many of the same resources in the same area, including the NYC watershed, and the combined, incremental effect of each has the potential to be cumulatively significant. Finally, there is no question that the projects are similar actions, and that the Atlantic Bridge Project is a reasonably foreseeable action under NEPA. The Atlantic Bridge Project shares many similarities with the AIM project, as discussed above, and will be constructed within a similar timeframe.

Moreover, although the Applicant has not yet, to our knowledge, submitted an application to FERC for the Atlantic Bridge Project, the project has been announced and is moving forward. Algonquin has executed an agreement with Unifil, a natural gas distribution company, and has completed an open season for the project.³² The company has also scheduled informational meetings to review the project with members of the public. One such meeting is in fact scheduled in Yorktown Heights, New York on September 29, 2014,³³ the day that the public comment period on the AIM Project DEIS closes.

In addition, the portion of the Atlantic Bridge Project located in New York appears to overlap with an earlier version of the AIM Project that was proposed in the Applicant’s initial draft Environmental Report in July 2013. According to a map submitted with the Applicant’s July 2013 draft Environmental Report, attached as Appendix A, the AIM Project was initially proposed within a much larger section of the NYC watershed, spanning from Cortlandt, New York to Somers, New York. The AIM Project was later modified to the current proposal, wherein the portion of the project in the NYC watershed was shortened to an approximately 2 mile segment from Cortlandt, New York to Yorktown, NY. The Atlantic Bridge Project would include a 4 mile segment in the NYC watershed, beginning in Yorktown, NY and appearing to run northeast toward Somers, New York. See map attached as Appendix B. Therefore, it appears that at least the New York portion of the Atlantic Bridge Project was proposed as a part of the AIM Project, then later broken into a separate project.

Given the interconnectedness of the Proposed Project and the Atlantic Bridge Project – which would upgrade and expand the same pipeline system, in the same area, affecting many of

³² *Id.*

³³ Town of Yorktown, New York, Algonquin Gas Transmission Will Hold Informational Meeting for Atlantic Bridge Expansion Project (last visited Sep. 25, 2014), available at: <http://www.yorktownny.org/community/algonquin-gas-transmission-will-hold-informational-meeting-atlantic-bridge-expansion>.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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CO22-18
(cont’d) the same resources, over the same general time period – the DEIS must include a review and analysis of both projects.

CO22-19 **D. The DEIS Fails to Provide a Comprehensive Analysis of Cumulative Impacts.**

The cumulative impacts analysis in the DEIS is woefully inadequate and fails to evaluate a number of “past, present, and reasonably foreseeable future actions” that are likely to combine with the effects of the Proposed Project to create cumulative impacts on water resources, climate change, and other aspects of the environment. The cumulative impacts analysis must be revised to comply with the requirements of NEPA.

Under NEPA, an EIS must include an evaluation of cumulative impacts,³⁴ defined as:

“[T]he impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.”

40 C.F.R. § 1508.7. See also *Oregon Natural Res. Council Fund v. Brong*, 492 F.3d 1120, 1132–33 (9th Cir. 2007) (“One of the specific requirements under NEPA is that an agency must consider the effects of the proposed action in the context of all relevant circumstances, such that where several actions have a cumulative . . . environmental effect, this consequence must be considered in an EIS.”) (internal quotation marks and citations omitted). Assessing the impacts of a proposed action within the context of existing and foreseeable effects in the same area yields “a realistic evaluation of the total impacts” and ensures that an EIS does not impermissibly “isolate a proposed project, viewing it in a vacuum.” *Grand Canyon Trust v. Fed. Aviation Admin.*, 290 F.3d 339, 342 (D.C. Cir. 2002).

First, the DEIS must include an analysis of cumulative impacts from the Atlantic Bridge Project, discussed in section ILC above. The Atlantic Bridge project is being constructed in the same area of the Proposed Project, during the same general timeframe, and would affect many of the same resources, including the East of Hudson NYC watershed. It is also being undertaken by the Applicant, meaning that details regarding project plans and likely impacts should be readily available to FERC upon request.

The DEIS does include a brief mention of the Atlantic Bridge Project, before concluding that “[b]ecause the Atlantic Bridge Project would not occur at the same time as the AIM Project, and because details are not known, it is not considered further in this analysis.”³⁵ This is not sufficient to satisfy NEPA’s requirements. The projects will be constructed during similar timeframes, with the AIM Project scheduled for construction in 2015 and the Atlantic Bridge Project scheduled for construction in 2015 and 2016.³⁶ In addition to the overlap in 2015, the

³⁴ NEPA requires an analysis of “direct effects” and “indirect effects.” 40 C.F.R. § 1502.16(a),(b). The term “effects” includes those that are “direct, indirect, or cumulative.” *Id.* § 1508.8.

³⁵ DEIS at 4-272.

³⁶ *Id.*

CO22-19 See the response to comment FA3-5.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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CO22-19
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timeframe for construction of the Atlantic Bridge Project is well within the timeframe of long-term, and even many short-term, impacts from the AIM Project.

Given that the projects will impact many of the same resources, using presumably many of the same construction methods by the same company, it is difficult to believe that FERC is unable to evaluate the expected environmental impacts from the Atlantic Bridge Project, as they should be remarkably similar to those of the AIM Project. For example, the Atlantic Bridge Project, as the AIM Project, would be constructed within the East of Hudson NYC watershed – replacing the existing 26 inch pipe with an expanded 42 inch pipe. Both projects risk causing short and long term impacts in the NYC watershed due to increased stormwater runoff, changes in drainage patterns, and disturbance of wetlands. These similar impacts must be considered together in the DEIS in order to provide a comprehensive evaluation of the potential impacts of the Proposed Project.

CO22-20

Second, the DEIS must include an analysis of any cumulative impacts from residential and/or commercial development projects in the East of Hudson NYC watershed that may be constructed within the same period of time as the Proposed Project. As part of the Environmental Report submitted with its application on February 28, 2014, the Applicant noted that various development and redevelopment projects in the NYC watershed may have cumulative impacts on resources when combined with the Proposed Project.³⁷ However, even this cursory identification of watershed development projects, which falls far short of NEPA’s required cumulative impacts evaluation, is not included in the DEIS. Instead, the cumulative impacts analysis contained in the DEIS completely ignores the existence of residential and/or commercial development projects within the East of Hudson NYC watershed, projects which fall squarely within the zone of cumulative impacts analysis required by NEPA. Development projects which occur in the East of Hudson NYC watershed would have similar impacts upon water and wetland resources in that area, as they often result in grading during construction, clearing of trees and other vegetation, disturbance of wetlands and buffer areas, increased stormwater runoff, and long-term changes in drainage patterns. Moreover, development projects planned for construction in the same window of time as the Proposed Project are easily identifiable by contacting watershed towns, which must approve proposed projects and will have records of environmental impacts and anticipated construction windows.

The DEIS must include identification and evaluation of each residential and/or commercial development project planned for construction in the East of Hudson NYC watershed during the same anticipated construction timeframe as the Proposed Project. The likely impacts from these projects, along with the Applicant’s plans for minimizing those impacts, must be detailed in the DEIS and comprehensively evaluated for potential cumulative impacts to the NYC watershed.

CO22-21

Third, the DEIS must include an evaluation of the impacts associated with increased industrial gas extraction activities that will be facilitated by the AIM Project, which will considerably expand natural gas delivery capacity in the Northeast region and therefore increase demand for gas extraction. The DEIS notes and quickly dismisses any potential cumulative

³⁷ Algonquin Incremental Market Project, Resource Report 1: General Project Description (Feb. 2014), Table 1.14-1, at 1-65 – 1-68.

CO22-20

Planned residential and other developments near the Project area were identified and provided in table 4.8.3-1 of the EIS. Table 4.13-1 of the EIS has been revised to reference these planned developments, which have been incorporated into the analysis.

CO22-21

See the responses to comments FA4-24 and CO12-7. The EIS correctly dismisses cumulative impacts with shale development, which occurs outside of the same airsheds, sub-watersheds, and resource areas that would be impacted by the proposed Project, as outlined in section 4.13 of the EIS.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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CO22-21
(conf'd) impacts from increased natural gas extraction, concluding that shale development occurs too far outside the project area to be considered further.³⁸ This ignores the potential for regional level impacts on airsheds, watersheds, and other resources from increased industrial gas development, as well as the potential climate change impacts, discussed below.

CO22-22 Finally, the DEIS must include substantive consideration of the Proposed Project’s likely cumulative impacts on climate change. Emissions of greenhouse gases (GHGs) associated with natural gas extraction, production, processing, transport, and infrastructure will be significantly increased by the AIM Project. According to the DEIS, taken together, potential estimated emissions of carbon dioxide equivalent (CO₂e) from the Proposed Project’s modifications to compressor stations alone will total more than 325,000 tons per year.³⁹ In addition to emissions from operation of the pipeline and related infrastructure, there are also likely to be increases in methane emissions associated with the increased extraction of natural gas facilitated by the AIM Project. Because methane is a significantly more potent greenhouse gas than carbon dioxide⁴⁰ and recent studies have found that the amount of methane currently emitted into the atmosphere from the natural gas supply chain has been considerably underestimated by regulators,⁴¹ increased methane emissions as a result of this project have the clear potential to be a contributor to global climate change that must also be addressed in the DEIS.

The DEIS mentions climate change only briefly, as part of the cumulative impacts analysis, before concluding that “there is no standard methodology to determine how a project’s relatively small incremental contribution to GHGs would translate into physical effects on the global environment.”⁴² This statement is, in fact, incorrect. EPA and other federal agencies use the social cost of carbon protocol to estimate climate benefits of agency actions and the economic costs associated with small increases in carbon dioxide.⁴³ In fact, a federal court recently rejected an environmental review conducted by federal agencies under NEPA for failing to estimate the costs associated with increases in GHG emissions. The Court disagreed with the agencies’ assertion that it was not possible to estimate the incremental effects of GHG emissions, precisely due to the availability of the social cost of carbon protocol. *High County Conservation Advocates, et al. v. United States Forest Service, et al.*, 44 E.L.R. 20144 (Dist. Colo. 2014) (finding it was “arbitrary and capricious to quantify the benefits ... and then explain that a similar analysis of the costs was impossible when such an analysis was in fact possible”) (emphasis in original). Accordingly, an evaluation of the Proposed Project’s cumulative impacts

³⁸ DEIS at 4-276.

³⁹ *Id.* at 4-231 – 4-233, Tables 4.11.1-7 – 4.11.1.11.

⁴⁰ According to the Intergovernmental Panel on Climate Change (IPCC), methane is at least 86 times more potent than carbon dioxide over a 20 year period, and at least 34 times more potent over a 100 year period. See IPCC, Climate Change 2013, The Physical Science Basis: Working Group I Contribution to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (2013), Chapter 8, Table 8.7, at 714.

⁴¹ See Miller, et al., “Anthropogenic emissions of methane in the United States,” *Proceedings of the National Academy of Sciences*, Vol. 110(50) (published ahead of print Nov. 25, 2013), available at: <http://www.pnas.org/gca/allch=citmgr&submit=Cto&gca=pnas%63f3110%62f50%62f20018>; Brandt, et al., “Methane Leaks from North American Natural Gas Systems,” *Science*, Vol 343, No. 6172 (Feb. 14, 2014), available at: <http://www.sciencemag.org/content/343/6172/733.summary>.

⁴² DEIS at 4-286.

⁴³ EPA, The Social Cost of Carbon (last visited Sep. 28, 2014), available at: <http://www.epa.gov/climatechange/f/P&Aactivities/economics/scc.html>

CO22-22

See the response to comment FA4-23 for additional information regarding Algonquin's efforts to minimize GHG emissions from Project facilities. See the response to comment CO12-13 for additional information regarding the GHG impact analysis prepared for the Project, including cumulative impacts. The commentor references using a social cost of carbon protocol. While such a tool exists, we believe that it would not be appropriate to use for this Project. The tool referenced by the commentor does not calculate methane emissions, which represent a portion of the Project's GHG emissions. Further, the tool referenced by the commentor is more useful for comparing alternatives using a cost/benefit analysis, which is not being done for the Project, and does not measure the incremental impacts by a Project on the environment. For these reasons, we do not feel this tool would be appropriate for estimating Project impacts, nor would its use inform our analysis of the Project.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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CO22-22
(conf'd) on climate change must be included in the DEIS to the fullest extent possible given the court acknowledged tools that are available.

III. The DEIS Should Include Additional Mitigation and Public Disclosure Measures.

NEPA requires that an EIS contain a discussion of “mitigation measures” for avoiding, minimizing, rectifying, reducing, or compensating for environmental impacts. 40 C.F.R. §§ 1502.16; 1508.20. The following additional mitigation measures should be evaluated and included in the DEIS in order to minimize impacts on water resources. The DEIS should also discuss measures to ensure that information related to construction and post-construction activities is made available to the public in a timely and accessible manner.

CO22-25 1. The Applicant should be required to implement additional mitigation measures for the Hudson River HDD crossing.

The Applicant plans to use horizontal directional drilling (HDD) to install a section of new, 42 inch pipeline under the Hudson River. Riverkeeper agrees with FERC’s assessment that if the use of HDD in the location identified by the Applicant is unsuccessful, the Applicant is required to obtain new authorizations for any requested change in location or crossing method.⁴⁴

However, FERC should require the Applicant to include additional mitigation measures for the planned Hudson River HDD crossing. According to the discussion provided in the DEIS, “results of the preliminary hydraulic fracture evaluation suggest a relatively high potential for hydraulic fracture in the soft sediments of the Hudson River HDD alignment.”⁴⁵ While the Applicant has agreed to implement “proper containment structures” should an inadvertent release of drilling fluid occur, there is no discussion of preventative measures that would be taken to ensure that an inadvertent release does not occur. Given the admittedly high likelihood of an inadvertent release, as well as the very real possibility that such a release would be difficult to observe due to river traffic and existing turbidity, the Applicant should be required to implement containment structures prior to beginning drilling in the nearshore area. It is far easier and less environmentally risky to implement preventative measures to avoid a release than to attempt to contain a release that is already occurring.

The DEIS should also assess the benefits of real time monitoring of the HDD drilling operation and water quality in the vicinity of the drilling, to ensure that any loss of drilling fluid into the environment would be quickly discovered and stopped. Riverkeeper called for an evaluation of monitoring of HDD operations in our comments on the scope of the DEIS,⁴⁶ but it has not been included in the current draft.

⁴⁴ DEIS at 2-36.

⁴⁵ *Id.* at 4-45.

⁴⁶ Scope Comments at 2-3.

CO22-23 Comment noted.

CO22-24 Among the recommendations in the EIS is that Algonquin file status reports on a weekly basis for the Project until all construction and restoration activities are complete under the Project docket (i.e., CP14-96). With the exception of certain confidential information regarding locations of sensitive resources, this information would be publicly available on FERC website (www.ferc.gov) using the eLibrary link.

CO22-25 Algonquin would implement its Best Drilling Practices, Monitoring, and Clean-up of Horizontal Directional Drilling Inadvertent Returns Plan for monitoring the HDD crossing of the Hudson River. This plan identifies monitoring of the drilling operation by the HDD operator and procedures for anticipating and addressing the potential for inadvertent releases as mitigation. The plan also states that the appropriate construction personnel would implement installation of containment structures and additional response measures if an inadvertent release were to occur.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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CO22-26

2. *The Invasive Species Control Plan should be revised to require seeding, planting, and monitoring of native wetland vegetation.*

The DEIS references the Applicant’s Invasive Species Control Plan (ISCP) when describing mitigation for construction related impacts to wetlands.⁴⁷ The ISCP proposes to control the spread of common reed, purple loosestrife, Japanese knotweed and glossy buckthorn, which are invasive plant species that in many cases are well established and comprise over 90% of the vegetative cover.⁴⁸ Common reed (*Phragmites*) and purple loosestrife are in fact well-suited to wetland soils and hydrology because they are obligate hydrophytes that establish and persist in such conditions.

The ISCP, however, proposes to seed restored wetland ROWs with ryegrass, an upland species not suited for establishment in wetlands, within six days of regrading. Ryegrass is well suited to stabilize disturbed soils in upland areas, but it is unlikely to establish in wetland areas, especially where standing water exists. Instead, the ISCP should require seeding, planting and monitoring of native wetland vegetation where wetlands have been disturbed by construction activities.

CO22-27

3. *The DEIS should include an explicit prohibition on the use of chemical additives in hydrostatic test water.*

In our comments on Algonquin’s application for a Certificate of Public Convenience and Necessity, Riverkeeper urged FERC to include a prohibition on the use of chemical additives during hydrostatic testing – which risks contaminating waterbodies and watersheds when the test water is disposed of – as a condition of project approval.⁴⁹ Algonquin agreed to this request within the NYC watershed in its response to our comments.⁵⁰ However, the DEIS merely notes that the Applicant is “not proposing to use any chemicals for testing or for drying the pipeline following hydrostatic testing.”⁵¹ The DEIS should include as a recommended condition for approval a prohibition on the use of chemical additives in hydrostatic test water throughout the project, including but not limited to the portions located within the NYC watershed.

CO22-28

4. *The Applicant should be required to provide third-party, pre- and post-construction testing and monitoring for water supply wells within the project area.*

The DEIS lists dozens of water supply wells within 150 feet of the construction work area for the Proposed Project, some of which may be proximal to blasting. The list includes 47 water supply wells in New York. The Applicant has agreed to offer pre- and post-construction

⁴⁷ DEIS at ES-4, ES-10, 4-62.

⁴⁸ Algonquin Incremental Market Project, Resource Report 3: Fish, Wildlife, and Vegetation (Feb. 2014), Appendix F, *Invasive Species Control Plan*.

⁴⁹ Application Comments at 4.

⁵⁰ Motion for Leave to Answer and Answer of Algonquin Gas Transmission, LLC, Docket No. CP14-96-000 (Apr. 23, 2014) at 19.

⁵¹ DEIS at 4-54.

CO22-26

Per the FERC Procedures, revegetation on the construction right-of-way with annual ryegrass is a temporary revegetation only to be implemented until a Project-specific wetland restoration plan is developed and/or implemented. See the response to comment CO21-37.

CO22-27

Algonquin agreed on the record that it would not use additives in hydrostatic test water; therefore, no further conditions are required.

CO22-28

See the response to comment FA4-19. Of the 47 wells within 150 feet of the construction workspace in the New York portion of the Project, only 18 wells are located close to areas that may require blasting to deepen the existing trench sufficiently to accommodate the new 42-inch-diameter pipeline. Algonquin would conduct pre- and post-construction testing of well yield and water quality at landowner request. Further, Algonquin would file the results of water supply well complaints within 30 days of placing the Project facilities in service. Those results would be filed in the Project docket as public records.

CO22 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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CO22-28
(cont’d) monitoring of well yield and water quality and has been instructed to report water supply well complaints within 30 days of placing the AIM Project in service.⁵²

While well monitoring and reporting of complaints are a good first step, Riverkeeper urges FERC to require the Applicant to conduct comprehensive, third-party pre- and post-construction well testing and ongoing monitoring of all potentially affected water supply wells. The Applicant should be required to test and monitor for a specified list of potential contaminants, which should be included in the DEIS, as well as for water yield. Finally, any reports regarding water supply well complaints and/or contamination should be made available to the public, as well as to FERC.

CO22-29 **5. The Applicant should be required to implement additional mitigation measures to protect fisheries resources and aquatic biota.**

Section 4.6.2.3 of the DEIS discusses impacts and mitigation measures regarding fisheries and aquatic resources that could be affected by construction of the Proposed Project. While Riverkeeper agrees with the use of the mitigation measures recommended by NYSDEC and included in the DEIS,⁵³ they alone are insufficient to protect fisheries and aquatic biota that may be negatively impacted by the 39 waterbody crossings planned in New York. In addition to the mitigation measures detailed in the DEIS, the Applicant should be required to collect baseline data regarding pre-construction waterbody and water quality conditions. This should include photo documentation of the pre-existing stream conditions, as requested by the Connecticut Department of Energy and Environmental Protection,⁵⁴ as well as pre-construction water quality testing. The Applicant should then be required to follow up with post-construction water quality testing in order to ensure that restoration measures have been successful, and, if they have not, with the implementation of additional measures.

CO22-30 **6. The Applicant should be required to publicly disclose all construction and post-construction plans, reports, and monitoring.**

Given the significant public interest in the Proposed Project, as well as the number of individuals and communities that will be affected, the Applicant should be required to disclose all construction and post-construction plans, reports, and monitoring on a publicly accessible website. To the extent that this information is already included in the Environmental Report and the DEIS, it should be relatively easily for the Applicant to include it on a dedicated website, which can then be updated with construction and post-construction information as it becomes available.

CO22-31 **IV. Conclusion**

For the reasons set forth above, the DEIS contains substantial flaws and fails to meet NEPA’s mandate that FERC take a hard look at the potentially significant environmental impacts associated with the AIM Project. Accordingly, the DEIS must be revised and resubmitted for

⁵² *Id.* at 4-34.

⁵³ *Id.* at 4-98 - 4-99.

⁵⁴ *Id.* at 4-98.

CO22-29 Algonquin conducted pre-construction waterbody surveys that documented existing stream conditions. The methodologies employed for the surveys were developed in consultation with the appropriate jurisdictional agencies. The survey reports included photo documentation of each waterbody proposed to be crossed by the Project. The survey reports were filed in support of Algonquin’s application to the Commission and were also submitted as part of the various CWA permits included by reference in the EIS. Algonquin’s E&SCP and our Procedures require post-construction monitoring and reporting of restoration of areas affected by Project construction. In addition, it is anticipated that the CWA permits that may be issued for the Project would also contain conditions related to monitoring and documentation of post-construction water quality parameters.

CO22-30 See the response to comment CO22-24.

CO22-31 See the responses to comments FA4-1 and SA1-12.

**CO22 – Riverkeeper, New York’s Clean Water Advocate
(cont’d)**

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CO22-31
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public review and comment before FERC makes any decision regarding the Applicant's request for a Certificate of Public Convenience and Necessity.

Sincerely,



Misti Duvall
Staff Attorney



William Wegner
Staff Scientist

**CO22 – Riverkeeper, New York’s Clean Water Advocate
(cont’d)**

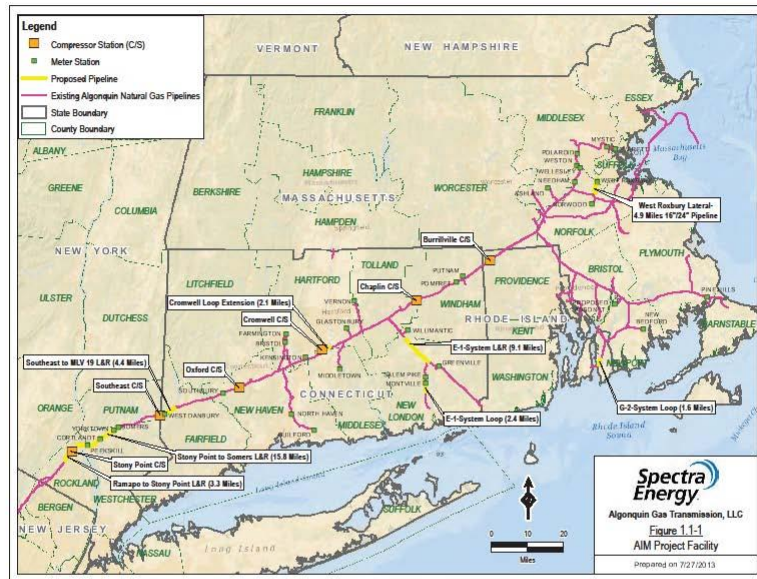
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APPENDIX A

July 2013 Proposed Project Map

**CO22 – Riverkeeper, New York’s Clean Water Advocate
(cont’d)**

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Source: Algonquin Incremental Market Project, Resource Report 1: General Project Description, Pre-Filing Draft, Docket No. PF13-16-000 (Jul. 2013) at 1-2, Figure 1.1-1.

**CO22 – Riverkeeper, New York’s Clean Water Advocate
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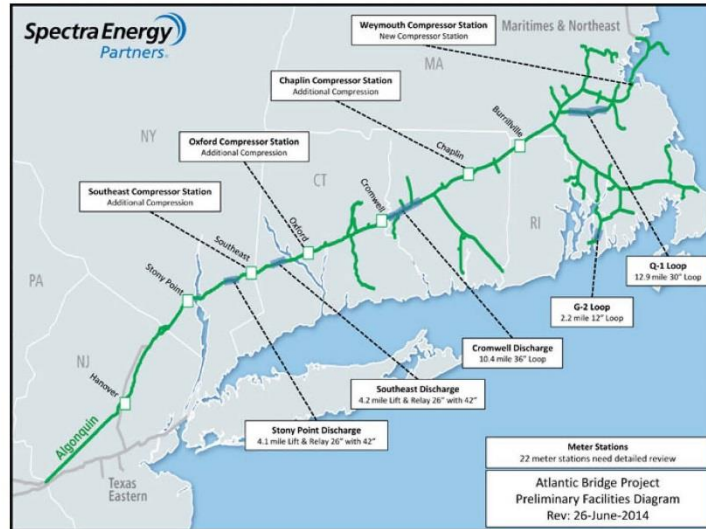
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APPENDIX B

Atlantic Bridge Project Map

**CO22 – Riverkeeper, New York’s Clean Water Advocate
(cont’d)**

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Source: Spectra Energy, Atlantic Bridge Project (last visited Sep. 29, 2014), available at:
http://www.spectraenergy.com/content/inline-images/Maps/map_atlantic_bridge_full2.jpg.

**CO22 – Riverkeeper, New York’s Clean Water Advocate
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at White Plains, NY this 29th day of September, 2014.



Misti Duvall
Staff Attorney
Riverkeeper, Inc.

CO23 – Occupy Providence

COMMENTS AGAINST THE AIM PROJECT, DOCKET # CP14-96-000 20140929-5235 FERC PDF (Unofficial) 9/29/2014 2:33:52 PM Submitted by Occupy Providence	
CO23-1	<p>The proposed pipeline expansion will bring more fracked natural gas to Rhode Island. This is an irresponsible plan with potentially ecocidal implications. As climate science says,[1] we have about a decade to build a sustainable, distributed system of power generation. Instead, this plan will saddle us with infrastructure built to last more than 50 years to extract fossil fuels that should remain where they are.</p> <p>As Larry Wilkerson, Colin Powell's former chief of staff, formulated it, our policy is: let's just keep being predators and watch the planet cast us off, because the planet is going to cast us off, or at least a sizable majority of us.[2]</p> <p>Rhode Island will import more natural gas, and in doing so, it will export death and destruction to the people near the drilling sites. Implementation of the pipeline expansion plan will contribute to global warming. Most of the wells supplying to gas to Rhode Island are currently located in Pennsylvania, but extreme-extraction wells are short-lived and they are spreading like wildfire across the US just to keep the production level.[3]</p>
CO23-2	<p>Maps of the RI Department of Health show a higher prevalence of asthma insurance claims in the section of Burrillville near the gas compressor station. It is not clear that the current facility is causing this. However, there are numerous, well-documented concerns and the research that has appeared in the peer reviewed public health literature is disconcerting. More research is needed for a full understanding. Until that time, is ignorance a solid basis for responsible public health policy?</p>
CO23-3	<p>Our governors and congressional delegations are unwavering in their support of the 1%. They have lined up behind the idea of using methane as a bridge fuel, but it's quite likely that the plan will be nothing but a "Green" Bridge to Hell. Once again government is supporting what has all the makings of a Wall Street sub-prime gas bubble.[4,5,6]</p>
CO23-4	<p>Our political class has also tried to make these vital decisions behind closed doors. The claim is that pipeline expansion will lower the price of fuel, but the gas may end up going to world market where its price is much higher than in the US.[3]</p>
CO23-5	<p>The first victims are always the vulnerable communities, be it in Pennsylvania or wherever fracking is taking place. Natural gas pipeline expansion at a time at which humanity has to kick its fossil fuel habit is crime against the People and against Life on Earth!</p>
<p style="text-align: center;">References</p> <ol style="list-style-type: none"> 1. James Hansen et. al., <i>Assessing Dangerous Climate Change: Required Reduction of Carbon Emissions to Protect Young People, Future Generations and Nature</i>, http://tinyurl.com/ppabapa 2. Larry Wilkerson on Predators 'R US: http://bit.ly/1mEYSjC 3. Randy Udall <i>Halliburton and the Mancos Sea: Shales Are Us...or Are They?</i> https://www.youtube.com/watch?v=H9ueB1xGb-g 4. <i>Documents Reveal Governors Gas and Hydropower Plan Shaped by Industry and Incomplete Analysis:</i> http://www.cfl.org/blog/clean-energy-climate-change/governors-infrastructure-plan/ 5. Wall Street's role in blowing the subprime gas bubble: https://www.youtube.com/watch?v=OIAFRzaInb4#t=27m0s 6. <i>Insiders Sound an Alarm Amid a Natural Gas Rush</i>, http://www.nytimes.com/2011/06/26/us/26gas.html 7. Health effects of fracking: http://concernedhealthny.org/wp-content/uploads/2014/07/CHPNY-Fracking-Compendium.pdf 	

CO23-1 Comment noted. See the response to comment CO12-13.

CO23-2 See the responses to comments SA4-1 and SA4-9.

CO23-3 Comment noted.

CO23-4 See the response to comment CO15-4.

CO23-5 Comment noted.

CO24 – Keep Yorktown Safe, Lisa Mackay

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September 28, 2014

Kimberly Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE Room 1A
Washington D.C. 201426

RE: Docket CP 14-96-000
Algonquin Incremental Market

Dear Ms. Bose:

These comments are being submitted on behalf of Keep Yorktown Safe, ("KYS"), a grass-roots community organization whose members live in the Town of Yorktown who care about the quality of life issues facing our community. The group was created to keep Yorktown's residents informed, safe, healthy, and engaged. The AIM proposal will modify, expand, and construct a large gas pipeline that already runs through the Town of Yorktown.

CO24-1 KYS is writing to register our objections to your agency's pending approval of Spectra Energy's application to go forward with the Algonquin Incremental Market (AIM) project. FERC's approval process and Draft Environmental Impact Statement (DEIS) are fundamentally flawed and many required components of your agency's DEIS are missing or incomplete. We demand that the DEIS be withdrawn and that a Supplemental Draft Environmental Impact Statement be submitted for public review only after modifications have been made and all of the relevant parties have submitted all necessary information.

The DEIS, as required under the National Environmental Policy Act (NEPA), is to assess the combined, incremental effects of human activity, referred to as cumulative impacts, which pose a serious threat to the environment. While they may be insignificant by themselves, cumulative impacts accumulate over time, from one or more sources, and can result in the degradation of important resources. Because federal projects cause or are affected by cumulative impacts, this type of impact must be assessed in documents prepared for National Environmental Policy Act (NEPA).

FERC must consider three types of actions: 1) connected actions where, a) one action automatically triggers another action, (b) an action cannot proceed unless other actions are taken previously or simultaneously, or (c) the actions are interdependent parts of a larger action and depend on the larger action for their justification; 2) cumulative actions which are actions when viewed with other proposed actions, have cumulatively significant impacts; and 3) similar actions which are actions that when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography.

CO24-1

See the responses to comments FA4-1 and SA1-12.

CO24 – Keep Yorktown Safe, Lisa Mackay (cont'd)

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CO24-2 Due to the requirements under NEPA, the current DEIS put forth by FERC fails to consider the connected and interdependent impacts of all three of the Spectra Algonquin pipeline phases. FERC must assess the environmental impacts in their totality of the AIM Project, the Atlantic Bridge Project and the Access Northeast Project. Collectively these projects are to expand the size of one of the Algonquin pipelines, which travels from New Jersey to Massachusetts, from a 26" pipeline to a 42" pipeline including the required improvements to the gas infrastructure facilities along the route. Collectively these three phases have vital environmental impacts that need to be addressed. The actions occurring in these phases are connected, cumulative and similar. The true scope and impact of the activities of all three phases MUST be under consideration. Any alternative review would deem this project segmentation, illegal under the NEPA.

CO24-3 Yorktown seems to be ground zero for attempts to evade the requirements of NEPA. The AIM pipeline expansion terminates at Stony Street (at the edge of *Granite Knolls West*). On the same day that the comment period closes, Spectra is holding an informational meeting in Yorktown to discuss the next phase, the Atlantic Bridge project, which begins where Algonquin ends and bisects the remainder of Yorktown, passing through the Sylvan Glen. The Sylvan Glen/Granite Knolls West complex has been recognized as an important and highly sensitive location in terms of biodiversity and the entire region's environment. Assessing the environmental impacts of these three phases of the Algonquin expansion need to be completed together to determine the impacts in their totality.

http://www.yorktownny.org/sites/default/files/fileattachments/planning/page/212/chbp_lo-res1.pdf (p. 23). This segmentation of the project appears to violate NEPA.

SYLVAN GLEN/GRANITE KNOLLS COMPLEX – NEW YORK CITY WATER SUPPLY

CO24-5 As noted in 4.3.2.1 Incomplete Stormwater Information section of the DEIS, the construction ware yard is located within the Granite Knolls West complex which is part of the Croton Watershed, a part of New York City's drinking water supply. The DEIS also notes that the required stormwater pollution prevention plan (SWPP) for this parcel has not yet been submitted. Consequently, in the absence of a SWPP, there is no way for the public to intelligently comment on the potential negative impact of stormwater runoff from the construction ware yard impact or the proposed launcher/receiver facility, also on town-owned parkland within the watershed. It should also be noted, that deforesting 15+ acres of land will acerbate the stormwater runoff problem.

CO24-6 The Atlantic Bridge Project, which begins at Granite Knolls West and continues into Sylvan Glen, is also located in the New York City Croton Watershed. The Croton Watershed includes 12 major reservoirs and four controlled lakes that supplies drinking water via an aqueduct. Together the reservoir systems deliver approximately \$1.4 billion gallons of water each day to nearly 9 million people in New York City, much of Westchester County, and areas of Orange, Putnam, and Ulster Counties.

Assessing the environmental impacts of Algonquin's two phases, AIM and Atlantic Bridge, separately on the Croton Watershed, is not addressing the cumulative impacts of this project as required by NEPA. Therefore, we are requesting that FERC withdraw the DEIS and that a Supplemental Draft Environmental Impact Statement be submitted for public review only after modifications have been made to include all

CO24-2 See the responses to comments FA3-5 and LA23-16.

CO24-3 See the response to comment FA3-5.

CO24-4 The Sylvan Glen Preserve - Granite Knolls Park area and the potential impacts of the Project on it are addressed in section 4.8.5.1 of the EIS.

CO24-5 Algonquin is no longer proposing a contractor ware yard at Granite Knolls West. See also the response to comment SA14-1.

CO24-6 See the responses to comments FA3-5 and SA1-12.

CO24 – Keep Yorktown Safe, Lisa Mackay (cont'd)

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CO24-6
(cont'd) phases of the Algonquin pipeline expansion are included and that all relevant parties have submitted all necessary information.

CO24-7 The AIM project would replace pipeline within the Town of Yorktown. It also would install a launcher/receiver facility and a contractor ware yard in Yorktown, upgrade a metering & regulating station and make modifications to two main line valve sites. The replacement, installation, and modification of those facilities would directly impact Yorktown's residents, many of whom live adjacent to or in close proximity to segments of the pipeline route, facilities and proposed construction. The impacts of construction and operation of the AIM Project on the Town and its residents may include public safety hazards; traffic and transportation disruptions (with related interruptions of public services); noise generation; air pollution; disruption of wetlands and aquatic ecosystems; disruptions and damage of parkland; and adverse effects on the Town's scenic, historic, and cultural resources.

CO24-8 KYS is particularly concerned about potential adverse environmental impacts during construction and subsequent operation of this pipeline, including but not limited to the impacts that the launcher/receiver facility operations, the contractor ware yard operations, air emissions surrounding the metering & regulation station, impacts to health, safety, and property values in neighborhoods, impacts to Town infrastructure (roads, bridges, culverts, utilities, etc) and impacts to local and county emergency services.

CO24-8 The current emissions will be significantly increased by the expansion of the nearby Southeast and Stony Point compressor stations, and other gas pipeline infrastructure and operations (including but not limited to metering and regulating stations, pipelines, valves, fittings and pigging operations). Moreover, the

CO24-9 location of the AIM pipeline within close proximity to the Indian Point Nuclear Facility and forty (40) years of spent fuel rods, intersecting with two proposed high voltage power lines, and in close proximity to a significant seismic zone, poses a risk of catastrophic damage with profound long-term impacts on the region.

Respectfully submitted,

Keep Yorktown Safe
c/o Lisa Mackay
1235 Williams Drive
Shrub Oak, New York 10588
(914) 548-9205
lisamackay@optonline.net

cc: Senator Chuck Schumer
Senator Kirsten Gillibrand
John Testa, Westchester County Board of Legislators
Michael Kaplowitz, Chairman, Westchester County Board of Legislators

CO24-7 Comment noted. The various impacts cited in the comment are addressed in the relevant sections of the EIS.

CO24-8 We disagree with the commentors characterization of emission increases at the Southeast and Stony Point Compressor Stations. See the responses to comments SA4-1 and SA4-9.

CO24-9 See the responses to comments FA4-25, SA4-2, and SA7-4.

CO25 – Keep Yorktown Safe, Motion to Intervene

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Algonquin Gas Transmission, LLC
Algonquin Incremental Market Project

Docket No. CP14-96-000
PF13-16-000

MOTION OF KEEP YORKTOWN SAFE TO INTERVENE OUT-OF-TIME
AND TO BE GRANTED FULL-PARTY STATUS

On August 6, 2014, the Federal Energy Regulatory Commission ("FERC") issued a Draft Environmental Impact Statement (the "Draft EIS") for the proposed Algonquin Incremental Market Project ("AIM" or the "Project"), FERC Docket No. CP14-96-000. Algonquin Gas Transmission LLC ("Algonquin"), a wholly owned subsidiary of Spectra Energy Partners, LP ("Spectra"), seeks, among other things, authorization to construct up to 42-inch diameter pipelines and all appurtenant facilities as well as stations in New York, Connecticut, Rhode Island and Massachusetts.

CO25-1 | Pursuant to 18 C.F.R. § 157.10 and 18 C.F.R. § 385.214, Keep Yorktown Safe ("KYS"), a grass-roots community organization, respectfully moves for the Commission to grant intervention out-of-time in the above-captioned matter on behalf of the Town of Yorktown's residents and requests that FERC grant KYS full party status in the above-captioned proceeding on behalf of the Town of Yorktown's residents. KYS has approximately 20 members in the Town of Yorktown who care about the quality of life issues facing them in our community. The group was created to keep Yorktown's residents informed, safe and healthy, and engaged. The AIM proposal will modify, expand, and construct a large gas pipeline that already runs through the Town of Yorktown.

Service in this proceeding should be made upon two KYS members on behalf of the Town of Yorktown's residents, and communications should be directed to the following persons:

Keep Yorktown Safe
c/o Paul Moskowitz
2015 Hunterbrook Road
Yorktown Hgts., New York 10598
spinorbit@hotmail.com

Keep Yorktown Safe
c/o Lisa Mackay
1235 Williams Drive
Shrub Oak, New York 10588
lisamackay@optonline.net

CO25-1

A review of the current service list for this docket indicates that Keep Yorktown Safe has been added as a party to the proceeding.

CO25 – Keep Yorktown Safe, Motion to Intervene (cont'd)

20140929-5286 FERC PDF (Unofficial) 9/29/2014 3:46:54 PM

The Town of Yorktown is a municipal corporation existing under the laws of the State of New York and organized under the Town of Yorktown Charter. The Town is located on the eastern bank of the Hudson River in the northern section of Westchester County, New York. The Town has a population of approximately thirty-six thousand (36,000) residents.

On February 29, 2014, Algonquin filed the Application for authorization to construct and operate the AIM Project. The AIM Project would replace an existing 26-inch natural gas pipeline and related infrastructure on public and private lands at the northern portion of Yorktown with a much larger, 42-inch diameter high-pressure pipeline in the same location. Project plans also include the installation of a launcher/receiver facility and a contractor ware yard, on Town owned parkland, Granite Knolls West. The application was assigned Docket No. CP14-96-000.

On March 18, 2014, FERC issued a Notice of Application for the proceeding, which set a comment date of April 8, 2014, and provided that any entity wishing to become a party for the proceeding should file a Motion to Intervene on or before the comment date.

KYS represents the interests of the Town of Yorktown's residents that will be directly affected by the outcome of this proceeding, within the meaning of FERC Rule 214, 18 C.F.R. § 385-214(b)(ii) and therefore, should be permitted to intervene out-of-time and be granted full-party status in this proceeding on behalf of the Town of Yorktown's residents. The comment period on the Draft EIS ends on September 29, 2014, and therefore, the Commission must conclude that this motion to intervene is filed timely, in accordance with both 18 C.F.R. § 157.10 (a)(2) and 18 C.F.R. § 385.214.

KYS was unfamiliar with the extent of the proceedings, as it does not regularly participate in matters before FERC and was not aware of the procedure by which entities must avail themselves in order to formally participate in FERC matters. No party will be prejudiced by the grant of this motion. KYS agrees to accept the record as it exists. KYS and the Town of Yorktown residents have a direct interest in the outcome of this proceeding that no other party can represent. KYS's participation is in the public interest and good cause therefore exists for the Commission to grant this Motion to Intervene.

Grounds for Intervention

CO25-2 The AIM project would replace pipeline within the Town of Yorktown. It also would install a launcher/receiver facility and a contractor ware yard in Yorktown, upgrade a metering & regulating station and make modifications to two main line valve sites. The replacement, installation, and modification of those facilities would directly impact Yorktown's residents, many of whom live adjacent to or in close proximity to segments of the pipeline route, facilities and proposed construction. The impacts of construction and operation of the AIM Project on the Town and its residents may

CO25-2

Comment noted. The various impacts cited in the comment are addressed in the relevant sections of the EIS.

CO25 – Keep Yorktown Safe, Motion to Intervene (cont'd)

20140929-5286 FERC PDF (Unofficial) 9/29/2014 3:46:54 PM

CO25-2
(cont'd) include public safety hazards; traffic and transportation disruptions (with related interruptions of public services); noise generation; air pollution; disruption of wetlands and aquatic ecosystems; disruptions and damage of parkland; and adverse effects on the Town's scenic, historic, and cultural resources.

KYS is particularly concerned about potential adverse environmental impacts during construction and subsequent operation of this pipeline, including but not limited to the impacts that the launcher/receiver facility operations, the contractor ware yard operations, air emissions surrounding the metering & regulation station, impacts to health, safety, and property values in neighborhoods, impacts to Town infrastructure (roads, bridges, culverts, utilities, etc) and impacts to local and county emergency services. The current emissions will be significantly increased by the expansion of the nearby Southeast and Stony Point compressor stations, and other gas pipeline infrastructure and operations (including but not limited to metering and regulating stations, pipelines, valves, fittings and pigging operations). Moreover, the location of the AIM pipeline within close proximity to the Indian Point Nuclear Facility and forty (40) years of spent fuel rods, intersecting with two proposed high voltage power lines, and in close proximity to a significant seismic zone, poses a risk of catastrophic damage with profound long-term impacts on the region.

Conclusion

CO25-3 KYS' participation in this proceeding is also in the public interest within the meaning of FERC Rule 214, 18 C.F.R. § 385.214(b)(iii). As the representative of numerous residents who will bear the AIM Projects adverse environmental, social and economic impacts, KYS requires party status in the proceeding to ensure that those residents' voices are heard.

The interests that KYS represent on behalf of the Town of Yorktown's residents cannot be adequately represented by any other party because many of those resident impacted by the project lack the resources to represent themselves and because no other entity shares Yorktown's residents' interests in the outcome of the proceeding.

KYS represents the Town of Yorktown's residents who have an interest in the outcome of this proceeding based on the impacts that the proposed project would have on it and as such is entitled to party status under 15 U.S.C. § 717N(e) and 18 C.F.R. § 385-214(b).

Granting KYS party status on behalf of the Town of Yorktown's residents will not result in any disruption of this proceeding or cause any undue burden or prejudice to any other party.

CO25-3 See the response to comments SA4-1, SA4-9, and CO24-8.

CO25-4 See the responses to comments FA4-25, SA4-2, and SA7-4.

CO25-5 See the response to comment CO25-1.

CO25 – Keep Yorktown Safe, Motion to Intervene (cont'd)

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CO25-5
(cont'd)

For the reasons set forth above, KYS respectfully requests that this Motion to Intervene out-of-time be granted and that we be permitted to participate, with the full rights of a party, in the above-captioned proceeding before FERC.

Respectfully Submitted,
Lisa Mackay and Paul Moskowitz
Keep Yorktown Safe
Yorktown, New York

CO26 – League of Women Voters of the Rivertowns

20140929-0018 FERC PDF (Unofficial) 09/29/2014



LEAGUE OF WOMEN VOTERS
Of The
RIVERTOWNS

P. O. Box 142
Hastings-on-Hudson, NY 10706
www.watpa.org/lwv/rivertowns

Educate. Advocate. Empower.

September 24, 2014

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

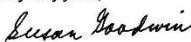
Dear Ms. Bose:

Re: Spectra Energy Algonquin Incremental Markets Project

Enclosed is a copy of a letter dated January 14, 2014, which was sent to you to record the position of the League of Women Voters Westchester on the above matter.

At that time we asked for your careful consideration of the project by the Commission.

CO26-1 At this time we are asking that you again review the risks this project would pose to the safety of the surrounding community. A concern is that New York State would not have a say in the safety measures.

Very truly yours,

Susan Goodwin
President
League of Women Voters of the Rivertowns

Enclosure

ORIGINAL CP14-96

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REGULATORY COMMISSION

CO26-1 See the responses to comments FA4-25, SA4-2, SA4-5, SA7-4, and LA3-2.

CO26 – League of Women Voters of the Rivertowns (cont'd)

20140929-0018 FERC PDF (Unofficial) 09/29/2014

[Copy of letter from LWV Westchester]

14 January 2014

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, DC 20426

Dear Ms. Bose:

CO26-1 (cont'd) The League of Women Voters of Westchester, NY, opposes Spectra Energy's proposal to greatly enlarge its Algonquin natural gas pipeline, lengthen its route and expand five existing compressor stations through ecologically sensitive areas and urges careful reconsideration of the project by the Commission.

CO26-2 In addition to health and safety concerns, it is our view that this expansion of a fossil fuel enterprise would be a step back from a more sustainable goal of renewable energy.

CO26-3 Pipelines and compressor stations have a poor safety record are vulnerable to leakage, spills, and explosions. Compressor station emissions include volatile organic hydrocarbons, nitrous oxide, and sulfur dioxide. Exposure has been associated with organ damage, blood dyscrasias, neoplasia and neurological damage. Methane, burned and leaked from pipes and valves, is a potent collateral byproduct of the system.

CO26-4 The possibility of explosions or fires is compounded by the location of the pipeline expansion project passing under the Hudson River from Stony Point to Verplanck, close to proposed construction of a new electric converter station in Verplanck, to an underground high voltage direct current electric transmission line and, or course close to the Indian Point Nuclear Power plant, threatening the security of the region.

CO26-5 In sum, this puts at risk all the property owners living in the vicinity of the proposed expansion with no certainty as to who would assume and be financially responsible for the formidable associated risks.

CO26-6 Any project like this must include consideration of and appropriate risk management and risk allocation with respect to increased environmental dangers due to fracking, including increased air and water pollution, greater consumption of clear water resources, loss of clean agricultural land with decreased production of healthy food, increased seismic activity and many risks of acute and chronic illnesses among humans and animals. This project clearly does not.

Thank you for this opportunity to express our comments. They are based on study and consensus on natural resources issues during the League's 94-year history.

Respectfully submitted,

/s/ Sharon Lindsay, President

/s/Susan Schwarz, Environment Portfolio

CO26-2 Comment noted.

CO26-3 See the response to comment CO14-25.

CO26-4 See the responses to comments SA4-1 and SA4-9.

CO26-5 See the responses to comments FA4-25, SA7-4, and LA2-6.

CO26-6 See the responses to comments LA1-10 and CO15-25.

CO26-7 See the responses to comments FA4-24, CO20-1, and CO22-21.

CO27 – Furnace Woods Elementary School PTA, Lisa Anderson

20140929-0024 FERC PDF (Unofficial) 09/29/2014

ORIGINAL FILED
 SECRETARY OF THE
 COMMISSION
 Cortlandt Manor, NY
 September 11, 2014

2014 SEP 29 A 11: 09
 FEDERAL ENERGY
 REGULATORY COMMISSION

Kimberly D. Bose, Secretary
 Federal Energy Regulatory Commission
 888 First Street NE, Room 1
 Washington DC 20426

**RE: Algonquin Incremental Market ("AIM") Project:
 FERC Docket No. CP 14-96-00**

Dear Secretary Bose:

Please accept the following comments on the Draft Environmental Impact Statement ("DEIS") for the proposed Algonquin Incremental Market ("AIM") pipeline expansion project, particularly as it affects our families, homes, and schools in the towns of Cortlandt Manor, Buchanan, Verplanck, Montrose, and Peekskill, New York. We urge the Federal Energy Regulatory Commission to withdraw the DEIS and take no further action on the application until all the matters included in these comments are addressed in a revised DEIS.

CO27-1

CO27-2

CO27-3

CO27-4

CO27-5

CO27-6

- 1) The proposed pipeline route is only 450 feet from Buchanan-Verplanck Elementary School. This school is a "High Consequence Area" because of the significant adverse consequences of an 'inadvertent release' or rupture. What are the requirements for a school situated this close to a 42" high pressure pipeline. Who will finance these changes if FERC chooses to put children at risk by allowing the pipeline near our school?
- 2) The National Research Council and Pipeline and Informed Planning Alliance (PIPA) both caution against schools and other hard to evacuate facilities close to pipelines. They recommend enhanced fire protection for buildings.
- 3) We want a transparent and independent risk-analysis study along the lines of what is required by the California Department of Education to determine the risks to a school in such close proximity to a 42-inch high pressure natural gas pipeline and Indian Point.
- 4) We also want an independent Health Impact Assessment of this project. How will construction affect those with respiratory issues like asthma? Will it be safe for children to be outside for recess or sports during the construction period? Spectra/Algonquin must be required to send notices to the homes of students, hold public meetings and communicate the health impacts of the pipeline.
- 5) The Stony Point compressor station is less than 5 miles from three of our district's schools. The emissions from this compressor station are not planned to be monitored. We want air quality assessments in addition to the Health Impact Assessment to make sure our air quality is safe in our community.

CO27-1 See the response to comment SA1-12.

CO27-2 See the response to comment SA4-5. The school assumes no new requirements as a result of the pipeline.

CO27-3 See the responses to comments FA4-25, SA1-9, SA4-5, and LA1-4.

CO27-4 See the responses to comments FA4-25, SA1-9, and SA4-5.

CO27-5 See the responses to comments SA1-9, SA4-1, and SA4-10.

CO27-6 See the responses to comments SA4-1, SA4-10, and LA1-6.

**CO27 – Furnace Woods Elementary School PTA, Lisa Anderson
(cont'd)**

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CO27-7 | 6) Several large energy and industrial facilities presently exist in proximity to the site of the proposed Algonquin landfill in Verplanck: Indian Point Nuclear Reactors 1,2, & 3; Continental Gypsum Plant; RESCO garbage burning facility; power facilities in Stony Point and Haverstraw, NY; and, the 1,000 MW Champlain-Hudson power cable, which FERC recently approved. Massive quantities of power, energy, and pollution are concentrated in a very small area of our community right now. We cannot safely accommodate any more energy projects.

CO27-8 | 7) The proposed pipeline route traverses through residential neighborhoods and public parks, including Blue Mountain Reservation. The environmental impact must be analyzed and the effect on our property values taken into account.

CO27-9 | 8) If the risks to students are to be ignored, the DEIS still lacks a site-specific plan and the public needs to be able to comment on this plan.

CO27-10 | Because the current DEIS fails to address these issues, a revised DEIS should be prepared for review and public comment that takes these points into consideration.

Due to its proposed proximity to a nuclear power plant, high voltage power lines, a seismic zone, Buchanan Verplanck Elementary School, and public parks, this project must be held to the highest environmental and safety review standard allowed by law.

Please reject the application as it has been presented.

Sincerely,



Lisa Anderson
Co-President, FWS PTA
On Behalf of The Furnace Woods Elementary School PTA

CO27-7 See the responses to comments FA4-25, SA4-5, SA7-4, and CO14-25.

CO27-8 See the responses to comments SA4-5 and LA23-21. Also, public lands, including the Blue Mountain Reservation, are discussed in section 4.8.5 of the EIS.

CO27-9 See the responses to comments FA4-1 and SA1-9.

CO27-10 See the responses to comments FA4-1 and SA1-12.

CO28 – Clean Air Council

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September 29, 2014

Filed Electronically

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

**Re: Draft Environmental Impact Statement of Algonquin Incremental Market Project,
FERC Docket No. CP14-96-000**

Dear Secretary Bose,

On behalf of the Clean Air Council ("Council"), please accept the following comments regarding the Draft Environmental Impact Statement ("Draft EIS") for Algonquin Gas Transmission, LLC's ("Algonquin") Incremental Market Project ("AIM Project"), issued on August 6, 2014, by the Federal Energy Regulatory Commission ("FERC" or "Commission"). For the reasons explained below, the Council believes that the Draft EIS prepared by FERC for this project is legally and factually inadequate, and fails to sufficiently account for the direct, indirect, and cumulative environmental impacts that will result if this project goes forward.

I. Project Background

On February 28, 2014, Algonquin filed an application with FERC for a certificate of public convenience and necessity.¹ Algonquin seeks approval to construct, abandon, install, own, operate, and maintain expansions of its existing interstate natural gas pipeline systems in New York, Connecticut, Rhode Island, and Massachusetts.

The AIM Project would consist of approximately 37.6 new miles of pipeline and modifications to associated aboveground facilities in New York, Connecticut, Rhode Island, and Massachusetts to deliver up to 342,000 dekatherms ("Dth/d") per day of natural gas service to the New England market. Specifically, the project would replace 26.3 miles of existing pipeline with 16- and 42-inch diameter pipeline; 3.3 miles of additional 12- and 36-inch-diameter pipeline

¹ Algonquin Gas Transmission, LLC, Application for Certificate of Public Convenience and Necessity, FERC Docket No. CP14-96-000.

CO28-1 See the response to comment FA4-1.

CO28 – Clean Air Council (cont'd)

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to an existing loop; and install approximately 8.0 miles of new 16-, 24-, and 42-inch diameter pipeline. The remainder of the pipeline facilities would consist of new mainline pipeline, new loop pipeline, and one new lateral pipeline. In addition, the AIM Project would modify 24 existing metering and regulating ("M&R") stations; construct 3 new M&R stations; and remove one existing M&R station. The modifications to the M&R stations would include 3 in New York, 13 in Connecticut, and 8 in Massachusetts. The 3 new M&R stations would be constructed in Suffolk and Bristol Counties, Massachusetts, and New London County, Connecticut.

Finally, the Proposed Project would modify six existing compressor stations, to add a total of 81,620 horsepower ("hp") in New York, Connecticut, and Rhode Island. Algonquin also proposes to abandon four existing compressor stations. Modifications to the compressor stations would include:

- the installation of two new compressor units and one unit restage at the Stony Point Compressor Station located in Rockland County, New York, for a net total of 21,000 additional hp;
- the installation of one new compressor unit and one unit restage at the Southeast Compressor Station located in Putnam County, New York, for a net total of 10,320 additional hp;
- the restage of one existing compressor unit at the Oxford Compressor Station in New Haven County, Connecticut, for no net change in hp;
- the installation of one new compressor unit at the Cromwell Compressor Station located in Middlesex County, Connecticut, for a net total of 15,900 additional hp;
- the installation of one new compressor unit and two unit restages at the Chaplin Compressor Station located in Windham County, Connecticut, for a net total of 7,700 additional horsepower; and
- the installation of one new compressor unit and two unit restages at the Burville Compressor Station located in Providence County, Rhode Island, for a net total of 15,900 additional hp.

II. Applicable Statutory and Regulatory Framework

FERC has jurisdiction over the transportation and wholesale of natural gas in interstate commerce pursuant to the Natural Gas Act, 15 U.S.C. § 717(b)-(c). Any person seeking to construct or operate a facility for the transportation of natural gas in interstate commerce must obtain a certificate of public convenience and necessity from FERC. *Id.* § 717(c)(1)(A). This required FERC approval is a major federal action significantly affecting the quality of the human environment, which triggers the requirements of The National Environmental Policy Act ("NEPA"). 42 U.S.C. §§ 4321-4370(h).

NEPA requires federal agencies to fully consider the environmental effects of proposed major actions, including actions that an agency permits, such as the construction of natural gas pipelines. *Id.* § 4332(2)(c). Thus, NEPA obligates federal agencies to consider environmental

CO28 – Clean Air Council (cont'd)

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harms and alternatives to a proposal in a "detailed statement" before approving any "major federal action significantly affecting the quality of the human environment." *Id.* § 4332(2)(c). A detailed statement must include:

- (i) The environmental impact of the proposed action; (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented; (iii) alternatives to the proposed action; (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and; (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

42 U.S.C. § 4332(C).

NEPA and its implementing regulations require FERC to consider the full range of environmental impacts in preparing an EIS, including: "ecological, aesthetic, historic, [and] cultural" impacts, "whether direct, indirect, or cumulative." 40 C.F.R. § 1508.8. Direct effects are "caused by the action and occur at the same time and place." 40 C.F.R. § 1508.8(a). Indirect effects are those effects caused by the action that occur "later in time or farther removed in distance, but are still reasonably foreseeable," and includes "growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air water and other natural systems including ecosystems." 40 C.F.R. § 1508.8. Finally, cumulative impacts are impacts, either direct or indirect, resulting from the "incremental impact of the action when added to other past, present, and reasonable foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such actions." 40 C.F.R. § 1508.7.

The Administrative Procedure Act ("APA") requires that, in order to be upheld, a federal agency's decision must not be "arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law." 5 U.S.C. § 706(2)(A). Further, in order for an agency's decision to be upheld by courts, the agency must take a "hard look" at the possible effects of the proposed action. *Nat'l Audubon Soc'y v. Hoffman*, 132 F.3d 7, 14 (2d Cir. 1997). Therefore, NEPA requires an agency to "examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made." *Motor Vehicle Mfrs. Ass'n of the U.S., Inc. v. State Farm Mut. Auto Ins.*, 463 U.S. 29, 43 (1983).

III. Analysis of Air Quality and Climate Change Impacts is Inadequate.

CO28-2 The proposed project would result in significant emissions of various air pollutants, including nitrogen oxides ("NOx"), volatile organic compounds ("VOCs"), hazardous air pollutants ("HAPs"), and greenhouse gases ("GHGs").² These pollutants degrade air quality and are harmful to human health. NOx contributes to the formation of both ozone and fine particulate matter ("PM").³ VOCs are also a precursor to ozone.⁴ Fine PM is linked to increased heart attacks, aggravated asthma and decreased lung function, and premature death for people with

² Al Armendariz, Emissions from Natural Gas Production in the Barnett Shale Area and Opportunities for Cost-Effective Improvements 24 (2009).

³ U.S. EPA, *Nitrogen Dioxide*, available at: <http://www.epa.gov/air/nitrogenoxides/>.

⁴ U.S. EPA, *Ozone – Good Up High Bad Nearby*, (June 2003) (hereinafter *EPA Ozone Brochure*), available at: <http://www.epa.gov/oar/oaqps/gooduphigh/bad.html>.

CO28-2

We disagree with the commentor's characterization of project emissions as significant. See the responses to comments SA4-1, SA4-9, and SA11-4.

CO28 – Clean Air Council (cont’d)

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CO28-2
(cont'd) heart or lung diseases.⁵ Ozone exposure can lead to coughing, chest pain, and throat irritation.⁶ Ozone also worsens bronchitis, emphysema, and asthma, and can impede lung function.⁷ The most common hazardous air pollutants (“HAPs”) associated with natural gas are n-hexane and the “BTEX” compounds: benzene, toluene, ethylbenzene, and xylene.⁸ Benzene is a known human carcinogen, and formaldehyde, which is also emitted from natural gas operations, is a probable human carcinogen.⁹

CO28-3 The proposed project would also result in the emission of large amounts of GHGs, including CO₂ and methane, which are extremely damaging to the climate.¹⁰ Methane is a potent GHG and some studies indicate it has between 33 to 105 times the global warming potential (“GWP”) of carbon dioxide.¹¹ Large amounts of methane escape into the atmosphere at all stages of production, processing, transmission, and distribution of natural gas.¹²

A. Direct and Indirect Impacts on Air Quality

CO28-4 The Draft EIS fails to provide a comprehensive analysis of the AIM Project’s impacts on air quality. While the Draft EIS describes in some detail the significant emissions of air pollution that would result from the construction and operation of the project, it impermissibly limits this discussion to whether air emissions would result in noncompliance with National Ambient Air Quality Standards (“NAAQS”). As a result, the Draft EIS concludes the proposed project would be “protective of human health. . .” without giving full consideration to the impacts the proposed project would have on air quality in the region. Draft EIS at 4-236. However, “[s]imple, conclusory statements of ‘no impact’ are not enough to fulfill an agency’s duty under NEPA.” *Found. on Econ. Trends v. Heckler*, 756 F.2d 143, 154 (D.C. Cir. 1985).

⁵ U.S. EPA, *Particulate Matter (PM)*, available at: <http://www.epa.gov/pm/health.html>.

⁶ EPA *Ozone Brochure*.

⁷ *Id.*

⁸ Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews, 76 Fed. Reg. 52,738, 52,745 (Aug. 23, 2011).

⁹ *Id.* at 52,791.

¹⁰ See Robert W. Howarth, et al., *Methane and Greenhouse-Gas Footprint of Natural Gas from Shale Formations*, 106 *Climatic Change* 679, 680 (2011) (hereinafter Howarth) available at: <http://link.springer.com/content/pdf/10.1007%2Fs10584-011-0061-5.pdf>.

¹¹ *Id.* at 685. See IPCC, *Direct Global Warming Potentials*, 2.10.2, Table 2.14 IPCC Fourth Assessment Report (2007), available at: http://www.ipcc.ch/publications_and_data/ard/wp1/en/ch2s2-10-2.html (placing methane’s GWP at 72 times higher than CO₂ over a 20-year time horizon).

¹² Howarth at 683. Recent air sampling by NOAA over Colorado found up to 7% methane leakage, more than double industry claims, see Petron, G. et al., *Hydrocarbon Emissions Characterization in the Colorado Front Range: A Pilot Study*, 117 *J. Geophys. Research*, D04304, doi:10.1029/2011JD016360. Additional sampling by NOAA in Utah found up to 9% leakage, Jeff Tollefson, *Methane Leaks Erode Green Credentials of Natural Gas*, 493 *Nature* 12, (2013), doi:10.1038/493012a. This estimate does not include additional losses in the pipeline and distribution system. While EPA’s recently released Oil and Gas Air Pollution Standards will address some leaks, many of the most effective technologies will not be required until 2015 and only for new equipment, U.S. EPA, *Oil and Natural Gas Sector: New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews* (Apr. 17, 2012), <http://www.epa.gov/airquality/oilandgas/pdfs/20120417finalrule.pdf>. Additionally, gas capture would only be required for wells where collector pipelines are already in place, which is often not the case when new sites are developed.

CO28-3 See the responses to comments FA4-14, CO7-3, CO12-13, and CO20-1.

CO28-4 See the responses to comments SA4-9 and CO14-41. Also, the EIS considers the construction emissions for all aspects of the project, aggregated per calendar year in each non-attainment or maintenance area for comparison to the general conformity thresholds. This analysis provides for careful consideration of construction emission impacts on air quality.

CO28 – Clean Air Council (cont'd)

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CO28-4
(cont'd) FERC's analysis of the project's potential impact on air quality appear to be largely based on an assumption that compliance with NAAQS, which are administered by the EPA, by itself ensures there will no adverse effect on air quality in the project area. Draft EIS at 5-13. This is an inappropriate abdication of FERC's responsibilities under NEPA. The fact that aspects of the proposed project would be regulated by other agencies does not eliminate FERC's responsibility to fully and independently assess the environmental impacts of the proposed project under NEPA, nor is the granting of permits by other agencies enough on its own to justify a conclusion that the project would not have significant impacts on the health of those in the project area. *See Idaho v. Interstate Commerce Comm'n.*, 35 F.3d 585, 595-596 (D.C. Cir. 1994) (holding an agency fails to take a hard look when it "defers to the scrutiny of others"). Permitting requirements merely provide a "minimum condition" for approval of a project; they do not indicate whether a project will have significant impacts in the context of NEPA. *Calvert Cliffs' Coordinating Comm. v. U.S. Atomic Energy Comm'n* 449 F.2d 1109, 1123 (D.C. Cir. 1971). Therefore, FERC must examine the potential impacts of the AIM Project without relying solely on the regulatory schemes of other agencies.

CO28-5 FERC largely dismisses the impacts that the construction of the AIM Project would have on air quality. Instead, the Draft EIS concludes that, with FERC recommendations, "air quality impacts from construction equipment would be temporary and should not result in a significant impact on regional air quality." Draft EIS at 4-230. However, this approach ignores the fact that construction emissions would exceed the emissions thresholds for NOx, CO, and PM emissions. *Id.* Further, the Draft EIS contains no analysis of the potential health effects to workers and members of the communities posed by HAPs, NAAQS, and fugitive dust emissions during the construction process. *Id.* FERC's failure to undertake meaningful analysis of the effect of HAPs is particularly concerning given the proximity of the project to densely populated areas.

CO28-6 Moreover, the Draft EIS fails to address potential mitigation measures for fugitive and non-combustion emissions that would occur if the project moves forward, despite concluding that non-combustion related emissions would occur from the pipeline and the proposed M&R stations during normal operation. Draft EIS at 4-234. However, implicit in NEPA is the requirement that agencies discuss mitigation measures. The CEQ defines "mitigation" as:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

40 C.F.R. § 1508.20

The Supreme Court considered the duty to mitigate under NEPA in *Roberston v. Methow Valley Citizens Council* 490 U.S. 332 (1989). There, the court determined that the omission of a "reasonably complete discussion" of mitigation measures undermines NEPA's action-forcing function. *Id.* Therefore, with regard to non-combustion and fugitive emissions, FERC must analyze whether there are mitigation measures, such as EPA's STAR program, that would lessen the negative impacts associated with the operation of the AIM Project.

CO28-5

Section 4.11.1.3 of the EIS presents detailed estimates of construction emissions associated with the proposed Project, which include HAPs and fugitive dust emissions. Algonquin has proposed mitigation measures to be implemented during construction, as presented in section 4.11.1.3 of the EIS, which include fugitive dust controls, the use of ultra-low sulfur diesel fuel, and the use of BACT on non-road engines where feasible to limit emissions from diesel combustions. The construction emissions are less than General Conformity de minimis thresholds, as presented in table 4.11.1-5 of the EIS; therefore, no additional mitigation, beyond the mitigation proposed by Algonquin, is required for construction emissions. Construction emissions associated with the Project would not result in a significant impact on regional air quality.

CO28-6

See the response to comment FA4-23.

CO28 – Clean Air Council (cont’d)

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- CO28-7 Finally, FERC must obtain complete information concerning the design and potential emissions of the M&R stations. By FERC's own account, "FERC staff is not able to assess if some state-level permits would be required for the proposed [M&R] modifications." Draft EIS at 2-343. Further, despite concluding, "additional GHG emissions would be generated by the emission units proposed at the five modified M&R stations and three new M&R stations," FERC has not yet estimated them. Draft EIS at 4-236. Such a lack of data and analysis fails to meet the requirements of NEPA that direct agencies to "insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements." 40 C.F.R. § 1502.24. Further, an EIS must contain an adequate compilation of relevant data and information, including baseline data. *e.g., Northern Plains Resource Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067 (9th Cir. 2011).
- CO28-8 FERC's inadequate discussion of air quality impacts is especially concerning given the location of the proposed project. The AIM Project would take place in the densely populated northeast corridor between New York City and Boston, which has multiple intra and inter-state Air Quality Control Regions ("AQCRs") that are either in non-attainment or unclassifiable for multiple National Ambient Air Quality Standards ("NAAQS"). Further, the construction and operation of the AIM project would take place in the Mid-Atlantic/Northeast Visibility Union ("MANE-VU") for regional haze, as well as the Northeast Ozone Transport Region ("OTR"). Given the ongoing NAAQS non-attainment in multiple AQCRs where the project is taking place, FERC must independently assess the environmental and health impacts of the AIM project using complete data and mitigation measures.
- CO28-9 In addition to the direct effects associated with the AIM project, FERC must also consider its potential indirect effects. Indirect effects are impacts caused by the action, but occur "later in time or rather removed in distance, but are still reasonably foreseeable 40 C.F.R. § 1508.8. Indirect impacts include "growth inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems *Id.* Therefore, the Draft EIS must give meaningful analysis to the growth inducing effects of the AIM Project.
- The inducement of future gas development in the Marcellus shale region is an indirect effect of the pipeline's construction and operation that must be evaluated in FERC's EIS for the AIM Project. Such development is well understood to be an indirect effect of the availability of infrastructure to transport gas to market. *See, e.g., Natural Res. Def. Council, Inc. v. Fed. Aviation Admin.*, 564 F.3d 549 (2d Cir. 2009) (holding agency properly considered indirect impacts of induced growth caused by new airport construction). Such development is reasonably foreseeable given the demand for drilling in the Marcellus region.
- Finally, the Draft EIS' partially bases its conclusion that the AIM project would not be growth inducing by stating, "the Project would not extend public service to areas currently unserved by natural gas transmission lines." Draft EIS at 4-276. However, this statement directly conflicts with the position of the Connecticut Department of Energy and Environmental Protection ("CTDEEP"), which recently issued a Comprehensive Energy Strategy ("CES") that "proposed to make natural gas available to as many as 300,000 additional Connecticut homes

- CO28-7 See the response to comment SA11-4. Regarding GHG emissions from M&R stations, table 4.11.1-13 of the EIS includes estimated GHG emissions from non-combustion and fugitive sources at the M&R stations. Section 4.11.1.3 and table 4.11.1-12 of the EIS have been updated to include GHG emissions from combustion sources at M&R stations. Based upon these estimates, the GHG emissions at M&R stations would be significantly less than any applicable permitting thresholds.
- CO28-8 See the responses to comments SA4-1, SA4-9, and SA11-4. Also, the EIS includes an extensive analysis of the various air quality control regions and the applicability of the general conformity rule to any non-attainment or maintenance areas.
- CO28-9 See the responses to comments FA4-24 and CO12-7.

CO28 – Clean Air Council (cont'd)

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CO28-9
(cont'd) and businesses.”¹³ Moreover, it is clear FERC is aware of this growth inducement, as it states, “we find that the project would result in the displacement of some fuel oil use...” Draft EIS at 4-286. FERC must consider the impact of additional shale extraction infrastructure and development, both upstream and downstream of the Project in the natural gas distribution system, that the current Project may foreseeably give rise to. Such “growth inducing effects” are expressly included in the definition of “indirect impacts.” 40 C.F.R. § 1808.8(b).

B. Cumulative Impacts on Air Quality

CO28-10 NEPA obligates FERC to conduct a comprehensive analysis of the incremental impacts of the Project when considered in addition to other past, present, and reasonably foreseeable future actions. 40 C.F.R. § 1509.7. However, the Draft EIS impermissibly concludes that the project’s cumulative impacts on air quality will be insignificant without providing any comprehensive analysis. Instead, the Draft EIS merely states, “the projects listed in table 4.13-1 are located over a large area; have varying construction schedules; and must adhere to federal, state, and local regulations for the protection of ambient air quality. . .” Draft EIS at 4-283. This general analysis is not enough, and fails to contain sufficiently detailed information to show FERC has taken the necessary “hard look” that NEPA requires. *Environmental Protection Information Center v. Blackwell*, 389 F. Supp. 2d 1174 (N.D. Cal. 2004).

The D.C. Circuit articulated five factors that an agency must consider in its cumulative impact analysis:

[A] meaningful cumulative impact analysis must identify (1) the area in which the effects of the proposed project will be felt; (2) the impacts that are expected in that area from the proposed project; (3) other actions-past, present, and proposed, and reasonably foreseeable- that have had or are expected to have impacts in the same area; (4) the impacts or expected impacts from these other actions; and (5) the overall impact that can be expected if the individual impacts are allowed to accumulate.

Grand Canyon Trust v. FAA, 290 F.3d 339, 345 (D.C. Cir. 2002).

At the outset of the cumulative impacts section, FERC misidentifies the area in which the effects of the proposed project will be felt. The Draft EIS defines the region of influence for air quality as “other projects with the potential to result in long-term impacts on air quality within the [AQCR] that would also be impacted by an AIM Project compressor station . . .” *Id.* However, this definition of “region of influence” is impermissible under NEPA because it fails to include the AIM Project’s cumulative impact on air quality in the Boston-Lawrence-Worcester AQCR. During the operation of the Proposed Project, FERC identified that there would be new combustion emissions from the proposed West Roxbury and Assonet M&R stations, as well as non-combustion and fugitive emissions from the eight modified M&R Stations and West Roxbury Lateral pipeline expansion located in the Boston-Lawrence-Worcester AQCR. Draft EIS 4-234. As a result of this omission, FERC’s cumulative impacts analysis fails to provide “a realistic evaluation of the total impacts” and instead, “isolate[s] [the] proposed project,”¹⁴ despite

¹³CT DEEP, *2013 Comprehensive Energy Strategy for Connecticut*, v (Dec. 19, 2013) available at, http://www.ct.gov/deep/tib/deep/energy/cep/2013_ces_final.pdf

¹⁴ *Grand Canyon Trust*, 290 F.3d at 342

CO28-10

We disagree. See the response to comment SA11-4, which explains that although the design of the M&R stations was not complete, the draft EIS included a conservative estimate of emissions. The West Roxbury and Assonet M&R Stations would result in de minimis emissions. Therefore, it was appropriate to base the cumulative impacts analysis on other projects that would result in long-term impacts in the same air quality control region as the compressor stations.

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CO28-10
(cont'd) identifying the Boston-Lawrence-Worcester AQCR and associated emissions sources in section 4.11.1 of the Draft EIS. Draft EIS 4-217. Even if FERC had included the Boston-Lawrence-Worcester AQCR, it would not be able to make an accurate determination of the projects cumulative impact in the region because FERC does not yet know the design of the M&R stations.

Moreover, FERC must assess the AIM Project's impacts on the Boston-Lawrence-Worcester AQCR in conjunction with past, present, and reasonably foreseeable future actions. 40 C.F.R. § 1808.25(c)(3). FERC excludes a number of natural gas projects from its cumulative impacts analysis based on the conclusion that they will not occur within the same region of influence as the AIM Project. Draft EIS at 4-272. However, Tennessee's proposed Northeast Direct Project ("NED Project") would undergo construction in the Boston-Lawrence-Worcester AQCR. That project would consist of two new compressor stations in Middlesex County for 143,000 horsepower for its pipeline terminating in Dracut MA.¹⁵ Additionally, the NED Project is a similar natural gas project under FERC's jurisdiction, and has already submitted a pre-filing application that includes detailed plans for the project.¹⁶ Thus, FERC must consider the cumulative impacts of the AIM Project with the NED Project and any other reasonably foreseeable projects in the Boston-Lawrence-Worcester AQCR.

Further, FERC must analyze the cumulative impacts associated with the AIM Project, rather than assume that the presence of "federal, state, and local regulations for the protection of ambient air quality" precludes them from assessing their impacts under NEPA. See Draft EIS at 4-283. As previously stated, FERC may not abdicate its responsibilities under NEPA by deferring to standards administered by other agencies. Permitting requirements merely provide a "minimum condition" for approval of a project; they do not indicate whether a project will have significant impacts in the context of NEPA. *Calvert Cliffs' Coordinating Comm. V. U.S. Atomic Energy Comm'n* 449 F.2d 1109, 1123 (D.C. Cir 1971). Therefore, FERC must take a "hard look" at the cumulative impacts the proposed project will have on the AQCRs in the project area.

C. Segmentation

CO28-11 Spectra energy may be improperly segmenting its expansion projects along the Algonquin pipeline system in order to avoid more rigorous environmental review under NEPA. In the context of NEPA, segmentation occurs when connected, cumulative, or similar federal actions are segmented into separate actions that prevent an agency from addressing the true scope and impact of the activities that should be under consideration. *Delaware Riverkeeper Network, et al. v. Federal Energy Regulatory Comm'n* 753 F.3d 1304 (D.C. Cir. 2014).

Segmentation under NEPA should be "avoided in order to insure that interrelated projects, the overall effect of which is environmentally significant, not be fractionalized into smaller, less significant actions." *Town of Huntington v. Marsh*, 859 F.2d 1134, 1142 (2d Cir. 1988). As the Draft EIS notes, the Atlantic Bridge Project is a planned expansion to the Algonquin pipeline that would occur in New York, Connecticut, Rhode Island, and Massachusetts, and add compression to the Southeast and Cromwell compressor stations already subject to Draft EIS at 272. Further, the project would consist of replacing pipelines across the same route as that

¹⁵ Tennessee Gas Pipeline Company, LLC, Pre-filing Request, FERC Docket No. PF14-22-000.

¹⁶ *Id.*

CO28-11 See the responses to comments FA3-5 and LA23-16.

CO28 – Clean Air Council (cont'd)

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CO28-11
(cont'd) traversed by the proposed project under consideration here.¹⁷ The final capacity of the project is planned between 100,000 and 600,000 Dth/d.¹⁸

While FERC acknowledges that Atlantic Bridge Project would share the same region and types of impacts, FERC considers no analysis because it would occur in 2017, and states the details are not known. However, when preparing an EIS, an agency must discuss reasonably foreseeable impacts of the proposed project. This requires reasonable forecasting on behalf of the agency, and forbids agencies from "shirk[ing] their responsibilities under NEPA by labeling any and all discussion of future environmental effects as 'crystal ball inquiry.'" *Dubois v. U.S. Dept. of Agriculture*, 102 F.3d 1273, 1286 (1st Cir. 1996). The Atlantic Bridge Project, along with the recently announced Access Northeast project, should be considered together with the AIM Project.¹⁹

D. Climate Change

CO28-12 Despite discussion of the negative effects that climate change will have in the project area, the Draft EIS avoids any meaningful discussion of the contribution of the proposed AIM project to that problem. Rather, FERC makes a variety of unsupported conclusions relating to the proposed project and climate change. See e.g., Draft EIS at 4-286 (stating that "emissions of GHGs from the proposed Project would not have any direct impacts on the environment in the project area," and that "the project would result in the displacement of some fuel oil use, thereby regionally offsetting some GHG emissions"). The Draft EIS simply does not provide an adequate basis for its determination that the AIM project and other connected, cumulative, or similar projects will not have a cumulatively significant impact on climate change.

As FERC acknowledged in the EIS, there are an increasing number of resources that detail impacts of climate change in specific areas. IPCC and U.S. Global Change Research Program and Intergovernmental Panel on Climate Change reports have noted many negative environmental impacts in the Northeast Region that have been attributed to climate change. At a minimum, these are the types of sources that FERC could employ to extrapolate the likely impacts of the proposed project. For FERC not even to attempt to do so is a disappointing and dangerous abdication of its responsibilities under NEPA.

IV. Conclusion

CO28-13 For the reasons detailed above, the EIS prepared by FERC for the Algonquin Incremental Market Project is factually and legally insufficient to support a finding that the proposed project would have no significant impact. As such, the Clean Air Council urges FERC to obtain additional data and perform a comprehensive analysis of the environmental impacts that the AIM project would have on air quality.

¹⁷ Spectra Energy *Atlantic Bridge Project Open Season*, available at, <https://infopost.spectraenergy.com/GotoLINK/GetLINKdocument.asp?Pipe=10076&Environment=Production&DocumentType=Notice&FileName=Atlantic+Bridge+Project+Open+Season.pdf&DocumentId=8a7842c943fed9190143ff70248c0028>

¹⁸ *Id.*

¹⁹ See, Press Release, *Spectra energy and Northeast Utilities Announce Access Northeast-New England Energy Reliability Solution*, available at, <http://www.spectraenergy.com/content/documents/Projects/NewEngland/Access-Northeast-Project-Brochure.pdf>. As stated by Spectra Energy, the Access Northeast Project is a partnership between Spectra energy and Northeast Utilities that would "complement Spectra energy's previously announced AIM and Atlantic Bridge projects."

CO28-12 See the response to comment CO12-13.

CO28-13 See the response to comment FA4-1.

CO28 – Clean Air Council (cont'd)

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Sincerely,

/s/

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CO29 – Sierra Club Rhode Island Chapter, Robert Malin

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Docket # CP14-96-000

My name is Robert Malin, and I serve as the Political Chair of the Sierra Club Rhode Island Chapter and am also a Charlestown, RI. I am speaking today on behalf of the RI Chapter of the Sierra Club concerns about the proposed expansion of the Algonquin Pipeline station in Burrillville. The Sierra Club was founded in 1892 to explore, enjoy, and protect our planet. Nationally and locally, the Sierra Club has been a leader in conservation practices and environmental protection and we see this as a threat to the public and the environment.

CO29-1 We join with Sierra Clubs throughout the region, and in Pennsylvania in particular where the methane gas is being extracted by the destructive process known as fracture drilling or Fracking, the real purpose of this expansion, in requesting that FERC consider that all these expansions in total, as it will have a negative impact on the environment, and conclude that these permits must not be issued as a class. They are not necessary to keep rates down, pose an imminent threat and are the wrong direction for a safe and sustainable energy future.

CO29-2 The residents of Burrillville, whose daily lives will be directly impacted by this project should not be subjected to the noise, health, explosion, water and air pollution risks that this expansion presents. Our Rhode Island members share the natural resources that will be affected – we drink the water, breathe the air, and enjoy the recreational value and ecological integrity of these beautiful lands.

CO29-3 The impacts caused by the construction and operation of the proposed project are collectively significant and though we have not yet seen the proposed mitigation measures, past proposals have been insufficient. In particular, we are concerned about forest degradation, soil compaction, noise, structural damage, aquifer contamination, air quality degradation, loss of wetlands and water quality degradation, storm water runoff – which is already a significant challenge in Rhode Island – flooding, and habitat destruction.

CO29-4 This is in addition to the collective damage that contributing leaked methane gas, an accelerant as a Green House Gas would contribute to the rapid progress of Global Warming which is an existential threat to not only the uplands like Burrillville that is already inundated by water, but also to our 400 miles of coastline. To wit, our State Legislature has decided to go in the opposite direction with the passage of the Resilient Rhode Island Act, which will set targets for GHG's that this leakage is likely to exceed.

CO29-1 Comment noted.

CO29-2 Impacts on noise, air quality and health, safety, and water resources, as well as mitigation measures, are discussed throughout the EIS.

CO29-3 We disagree. Proposed mitigation measures for the topics mentioned are included in their applicable sections within section 4 of the EIS.

CO29-4 See the responses to comments FA4-23 for information regarding the effort to minimize methane leaks from Algonquin facilities and CO12-13 regarding the analysis of GHG emissions, climate change and the use of CEQ guidance.

**CO29 – Sierra Club Rhode Island Chapter, Robert Malin
(cont'd)**

CO29-5 Rather we are embarking on a path to move to renewable energy sources a potential energy source that is is grossly underestimated in the draft EIS report. We have many programs like the to develop site potential both in rural areas, municipal roof tops and municipal leasing programs (I hope.) In short, when it comes to renewables, we simply have not been investing in it yet this is the de facto justification for this expansion- the need for gas for heating in the winter.

There is no consideration paid to solar energy for space heating and heating hot water. When I was VP of Marketing of Resources Inc. in the 1980's, we installed Solar Regulatory Certification Corporation approved panels which we documented in a study at Clarkson College of Engineering as having the potential to generate enough BTU's to generate about 30% of winter heating needs. In overcast Rochester, NY where we installed them we saw these savings and sometimes more in customers utility bills. Conservation further reduced the load sometimes to zero heat. And the same system provided most of the heat in the spring and fall and hot water in the summer, and all the hot water. I find it hard to believe that 30 years later we can't do better than this and spare the residents of Burrillville, Rhode Island and the region the dangers of this pipeline expansion.

CO29-6 Please provide studies that show renewables cannot be brought to scale, the pipeline is not leaking and there are not health risk as the draft EIS holds these assumptions but does not present the basis for the conclusions.

CO29-7 In summary, investment in this pipeline infrastructure, which if approved by FERC will be paid for by the ratepayers and taxpayers, will drain resources away from this renewable development at the peril of the local region with no justification. At a minimum, as the EPA is presently investigating, the existing leaks need to be mitigated at the expense of Spectra, and the risks of CO29-8 Fracking to the environment and all living things, must be evaluated before any expansion is considered. We believe that when all this is taken into consideration including the contributions of leaking methane to the problem of Climate Disruption, which we are now experiencing, regulators like FERC will assist RI in going in a new direction.

CO29-9 The consequences outlined above must be adequately addressed in the draft environmental impact statement in order to support a decision under NEPA, or the conclusion that the project serves the public interest is unfounded.

Thank you for the opportunity to comment, and we appreciate a thorough approach to environmental review.

Respectfully submitted,

Robert Malin
Political Chair
Sierra Club, Rhode Island Chapter
42 Rice Street
Providence, RI 02917

CO29-5 See the response to comment CO7-5.

CO29-6 Section 3.2.2 of the EIS provides citations to sources leading to the recommendation to eliminate renewable energy sources from further consideration as an alternative to the AIM Project. See also the responses to comments SA4-1 and SA4-10 regarding health risk risks. See the responses to comments FA4-23, CO12-13, and CO14-54 regarding the inclusion of leak and fugitive emissions in the EIS.

CO29-7 The proposed Project would be privately financed by Algonquin. The cost to construct and operate the facilities would be paid for by Algonquin's customers in accordance with rates approved by the FERC. Customers are not required to use the natural gas that would be supplied by this or any other projects and is free to conserve energy or utilize other forms of energy including non-fossil fueled based renewables.

CO29-8 See the responses to comments FA4-24 regarding shale gas impacts and FA4-23, CO12-13, and CO14-54 regarding leaks and fugitive emissions.

CO29-9 See the responses to comments FA4-1 and SA1-12.

CO30 – Legacy Place Properties, LLP and National Amusement, Inc.

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PROFESSIONAL CORPORATION
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Established 1886

Sanford M. Matathia
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September 29, 2014

On-Line E-Filing

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

**Re: FERC Docket No. CP14-96-000
Algonquin Incremental Market (AIM) Pipeline Project
West Roxbury Lateral, Elm Street and Route 1, Dedham, MA**

Dear Secretary Bose:

Please accept this letter as the joint comment of Legacy Place Properties and National Amusements (collectively, "Legacy")¹ on the Draft EIS for the AIM pipeline project proposed by Algonquin Gas. Legacy is primarily concerned with the severe traffic disruption that will likely accompany construction of the proposed pipeline at the junction of local (Elm Street), state (Route 1) and federal (Interstate 95) roadways. This impact results from the diminished capacity of heavily trafficked roadways that will be appropriated in part for pipeline construction over the span of months and possibly years. Given its concern with the project's traffic impacts, Legacy has fully participated in every step of FERC's environmental review process (including the pre-filing phase) and has had several constructive meetings with Algonquin during that time. We believe that the outcome from this process has been a substantial improvement to the AIM project from a traffic impact perspective. That said, there remain a myriad of major traffic issues that have not yet been addressed. We ask here that these outstanding issues (noted below) be vetted as part of FERC's continuing environmental review process.

¹ Legacy Place Properties LLC and National Amusement, Inc. are owners and operators of a new 500,000+ square foot lifestyle center named Legacy Place located at the intersection of Elm Street and Route 1 (aka Providence Highway) in Dedham. The facilities comprising Legacy Place include some 84 businesses including retail stores, restaurants and a 2895-seat theatre.

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CO30-1

In addition, Algonquin has committed to work closely with the MassDOT, Town of Dedham Police, Town of Dedham Department of Public Works, Legacy Place, and other local landowners and businesses during construction of the Elm Street/Route 1 Intersection. Should traffic conditions become a concern at this intersection during construction, Algonquin would make immediate adjustments to the specific traffic management plan in coordination with those entities. Adjustments could include revised traffic flows and/or hours of the construction work.

CO30 – Legacy Place Properties, LLP and National Amusement, Inc. (cont'd)

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Secretary Bosc
September 29, 2014
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CO30-1
(cont'd) Roadway Crossing Design. In order to minimize the project's impact on traffic in the vicinity of Elm Street and Route 1, Algonquin originally planned to run its pipeline along the roadway shoulder with trenchless crossings of some if not all driveways serving Legacy Place. This plan was presented in FERC's Draft EIS. Subsequently, Algonquin revised the pipeline alignment by shifting it to the opposite side of Elm Street and Route 1. This project change, which we generally view as a well-considered improvement, was documented in a supplemental information package ("SIP") filed with FERC on September 19, 2014.² With this change in the pipeline alignment, the driveway crossings at Legacy Place were dropped, and several roadway crossings were added (Elm Street at Station 57.00±, Route 1 at Station 62.00± and Route 1 at Station 74.00±). Because these roadway crossings will create such a major impediment to traffic flow, we believe they should be designed to minimize that impact to the maximum extent practical. For this reason, we suggest that trenchless (rather than open cut) roadway crossings be considered for the revised pipeline within the Elm Street/Route 1 area.³ If this is not feasible, it becomes incumbent to mitigate impacts in other ways as further discussed below.

Construction Timing Restriction. Construction timing is an extremely simple and highly effective way to avoid unnecessary and unacceptable traffic impacts. For this reason, Legacy has repeatedly sought assurances that the project at this location will not be constructed during the busiest time periods at Legacy Place (which generally coincide with the highest traffic volumes on surrounding roadways). These "peak periods" include weekends (including Fridays), holidays (including school vacations), and the most intensively sustained shopping period of the year (Labor Day through New Year's Day). Algonquin has partially addressed this subject by adopting a night schedule (9:00 p.m. to 5:00 a.m.) for construction work on Route 1. We suggest 2 additional restrictions to this construction schedule: (i) avoid day-time work on Elm Street during the peak periods noted above; and (ii) avoid night-time work on Route 1 during these peak periods, at least until the 11 pm closing of most businesses at Legacy Place.

² The SIP (accession number 20140919-5149) included plans of the revised pipeline alignment and a revised Transportation Management Plan. We assume that this filing was intended to replace virtually all of the Draft EIS on the same subject. Accordingly, our comments here are more directed to Algonquin's SIP than to FERC's Draft EIS. We recognize this to be an unusual situation (both procedurally and substantively), but have attempted to work with it to the extent reasonable.

³ Trenchless crossing of the heavily trafficked roadways at this location would appear warranted unless the Level of Service at impacted intersections during construction has been shown to be acceptable. No such documentation has been provided for these intersections, contrary to FERC's direction on the scope of TMI's for the West Roxbury Lateral (see FERC Staff comments from February 19, 2014, accession number 20140324-4012, as further reiterated in FERC's Environmental Data Request dated April 28, 2014, accession number 20140428-3030).

CO30 – Legacy Place Properties, LLP and National Amusement, Inc. (cont'd)

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CO30-1
(cont'd)

Traffic Management Plan. The Traffic Management Plan provides an excellent framework for memorializing all of Algonquin's commitments to mitigate the project's traffic impacts. In addition to the trenchless crossing and construction timing items noted above, we suggest that the TMP be expanded to address the following missing elements:

- Capacity Limits. The TMP references and relies on "Ideal" Average Work Zone Capacity values⁴ as the basis for its (tacit) assumption that traffic conditions on Elm Street and Route 1 will not deteriorate to an unacceptable level of service during project construction. This assumption is made without the benefit of any LOS analysis for the intersections in this area, and without accounting for the several proposed open cut roadway crossings located in close proximity to these intersections. We seriously question whether the Ideal values serve as a technically sound basis for assessing the project's traffic impacts and determining when more mitigation is needed to offset those impacts. As an expedient way to deal with this situation, we suggest that a simple performance metric (such as queue length or travel delay) be adopted to define an unacceptable traffic condition which, if exceeded, would trigger the implementation of contingent mitigation measures.
- Police Details. As shown by the typical construction management schematics contained in the TMP, each increment of construction staging will be accompanied by a police detail stationed in the immediate vicinity of the active work zone. It is not clear how the typical construction schematics are intended to inform the site-specific TMPs, which generally show no police presence, even though these site-specific plans are intended to give detailed management information on the most traffic critical parts of the project. Nor is there any clear recognition in the SIP that additional police control may be needed and, if so, will be provided. There are any number of situations, some quite obvious, which would seem to call for substantially greater police coverage.⁵ We suggest that the

⁴ Attached is the table showing and explaining these "Ideal" values, excerpted from a MassDOT publication (undated) referenced as "MassHighway Standard Details and Drawings for the Development of Temporary Traffic Control Plans". We think it obvious that these values fall far short of the conventional LOS analysis and quantitative delay calculations that FERC required for assessing the traffic impacts of this project.

⁵ For example, extra police will likely be needed to manage traffic exiting National Drive by directing it onto Elm Street eastbound, especially when westbound traffic is queued up due to the pipeline crossing of Elm Street. Likewise, extra police will likely be needed to keep US Route 95 highway ramps open, especially when Route 1 northbound traffic is queued up due to the pipeline crossing of Route 1. Similarly, extra police will likely be needed to aid the flow of traffic on Route 1 southbound at the double left onto Legacy Boulevard, especially when these travel lanes are being crossed by the pipeline.

CO30 – Legacy Place Properties, LLP and National Amusement, Inc. (cont'd)

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CO30-1
(cont'd)

TMP be revised to acknowledge this need, commit to meet it, and document how that will be done.

- Road Re-Construction. The Project's traffic impacts will be less severe and shorter lived if the roadways that are opened for pipeline placement are quickly returned to a condition that affords the highest possible level of service. Elements of this re-construction process would include: (i) tightly confined work zones with limited lengths of active trench covered by removable plates; (ii) prompt temporary paving of re-filled trenches, with re-leveling of all patches at regular intervals; and (iii) full permanent re-paving of roadway segments on a not-to-exceed elapsed time schedule.⁶ The TMP did not address this subject, and we suggest that it be revised to do so.

Public/Private Coordination. The construction of this Project will present a complicated set of traffic issues that call for a high level of coordination between and among any number of public and private entities. For its part, Legacy commits to an active and constructive role in the Project's planning and implementation. Along these lines, Legacy will look to participate fully in the project's regulatory approval and construction oversight processes, as conducted by state and local officials having authority over public safety (police), public works (roadways) and related matters.⁷ We believe that the coordinated efforts of all these parties will be greatly aided by the presentation of all appropriate traffic mitigation in FERC's Environmental Impact Statement.

- CO30-2 Sufficiency of Draft EIS. By letter dated August 6, 2014, Legacy filed a "placeholder" comment with FERC, acknowledging the proponent's intention to supersede the Draft EIS by revising the pipeline alignment, with corresponding changes to traffic impacts, management plans, mitigation measures, etc. At the same time, Legacy committed privately to Algonquin that it would review the SIP and attempt to comment on it within the context of the Draft EIS review process. As presented here, our review comments are necessarily limited by the short time period (one week) between Algonquin's SIP and FERC's comment deadline on the Draft EIS. Given the evident shortcomings of Algonquin's SIP, it is our view that a revised or supplemental Draft EIS (at least

⁶ By way of example, construction work on Elm Street, once started, should continue without interruption to completion, and that roadway should thereafter be permanently repaved without waiting for other project segments to be completed.

⁷ By way of example, Legacy should be a full participant in all meetings and reports by which the Town monitors and manages the progress of pipeline construction in streets surrounding of Legacy Place.

CO30-2 See the responses to comments FA4-1, SA1-12, and CO30-1.

CO30 – Legacy Place Properties, LLP and National Amusement, Inc. (cont'd)

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CO30-2
(cont'd) for the Dedham portion of the West Roxbury Lateral) is required in accordance with NEPA regulations at 40 CFR 1502.9 (a) and (c).

CO30-3 Summary. In summary, we ask FERC to require a revised or supplemental Draft EIS on the newly aligned pipeline at this traffic critical location inclusive of the following subjects: (1) incorporation of trenchless roadway crossings on Elm Street and Route 1; (2) construction timing restrictions to avoid roadway work during peak traffic periods; (3) establishment of performance criteria for defining unacceptable traffic conditions to be used in the field as the basis for requiring additional mitigation measures; (4) commitments to fund a full complement of police details commensurate with traffic needs; (5) commitments to fund a full and prompt reconstruction of roadways used for pipeline construction; and (6) such other information as would enable successful coordination by state and local authorities responsible for controlling the traffic impacts of this project. In all events, the TMP should be revised and subject to further public review before being approved by FERC and included in its Final EIS.

Thank you for considering our comments.

Sincerely,

Legacy Place Properties LLC &
And National Amusements, Inc.

By its Attorney,



Sanford M. Matathia

SMM:smg

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A1115676.2

CO30-3 See the responses to comments FA4-1, SA1-12, and CO30-1.

CO30 – Legacy Place Properties, LLP and National Amusement, Inc. (cont'd)

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NOTES:

1. ALL TEMPORARY TRAFFIC CONTROL WORK SHALL CONFORM TO THE LATEST EDITION OF THE "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES" (MUTCD) AND ALL REVISIONS, UNLESS SUPERCEDED BY THESE PLANS.
2. ALL SIGN LEGENDS, BORDERS, AND MOUNTING SHALL BE IN ACCORDANCE WITH THE MUTCD.
3. TEMPORARY CONSTRUCTION SIGNING AND ALL OTHER TRAFFIC CONTROL DEVICES SHALL BE IN PLACE PRIOR TO THE START OF ANY WORK.
4. TEMPORARY CONSTRUCTION SIGNING, BARRICADES, AND ALL OTHER NECESSARY WORK ZONE TRAFFIC CONTROL DEVICES SHALL BE REMOVED FROM THE HIGHWAY OR COVERED WHEN THEY ARE NOT REQUIRED FOR CONTROL OF TRAFFIC.
5. SIGNS AND SIGN SUPPORTS LOCATED ON OR NEAR THE TRAVELED WAY, CHANNELIZING DEVICES, BARRIERS, AND CRASH ATTENUATORS MUST PASS THE CRITERIA SET FORTH IN NCHRP REPORT 350, "RECOMMENDED PROCEDURES FOR THE SAFETY PERFORMANCE EVALUATION OF HIGHWAY FEATURES" AND/OR "MANUAL FOR ASSESSING SAFETY HARDWARE" (WASH).
6. CONTRACTORS SHALL NOTIFY EACH ADJUTTER AT LEAST 24 HOURS IN ADVANCE OF THE START OF ANY WORK THAT WILL REQUIRE THE TEMPORARY CLOSURE OF ACCESS, SUCH AS CONDUIT INSTALLATION, EXISTING PAVEMENT EXCAVATION, TEMPORARY DRIVEWAY PAVEMENT PLACEMENT, AND SIMILAR OPERATIONS.
7. THE FIRST FIVE PLASTIC DRUMS OF A TAPER SHALL BE MOUNTED WITH TYPE A LIGHTS.
8. THE ADVISORY SPEED LIMIT, IF REQUIRED, SHALL BE DETERMINED BY THE ENGINEER.
9. DISTANCES ARE A GUIDE AND MAY BE ADJUSTED IN THE FIELD BY THE ENGINEER.
10. MAXIMUM SPACING OF TRAFFIC DEVICES IN A TAPER (DRUMS OR CONES) IS EQUAL IN FEET TO THE SPEED LIMIT IN MPH.
11. MINIMUM LANE WIDTH IS TO BE 11 FEET (3.3m) UNLESS OTHERWISE SHOWN. MINIMUM LANE WIDTH TO BE MEASURED FROM THE EDGE OF DRUMS OR MEDIAN BARRIER.
12. ALL SIGNS SHALL BE MOUNTED ON THEIR OWN STANDARD SIGN SUPPORTS.

LEGEND:

- REFLECTORIZED PLASTIC DRUM OR 36" CONE
- P/F POLICE/FLAGGER DETAIL
- ▨ TYPE III BARRICADE
- CHANGEABLE MESSAGE SIGN
- ARROW BOARD
- ▨ WORK ZONE
- DIRECTION OF TRAFFIC
- ▨ IMPACT ATTENUATOR
- ▨ MEDIAN BARRIER
- ▨ MEDIAN BARRIER WITH WARNING LIGHTS
- ▨ WORK VEHICLE
- ▨ TRUCK MOUNTED ATTENUATOR
- TRAFFIC OR PEDESTRIAN SIGNAL
- ▨ SIGN

THE IDEAL CAPACITY OF A MAJOR HIGHWAY IS GENERALLY CONSIDERED TO BE 1900 PASSENGER CARS PER HOUR PER LANE (PCPHPL). IN WORK ZONES ON A MULTI-LANE DIVIDED HIGHWAY, THE FOLLOWING VOLUME GUIDELINES HAVE BEEN SUGGESTED:

MEASURED AVERAGE WORK ZONE CAPACITIES

NUMBER OF LANES		NUMBER OF STUDIES	AVERAGE CAPACITY	
NORMAL (EXISTING)	OPEN (TO TRAFFIC)		VPH	VPHPL
3	1	7	1,170	1,170
3	1	8	1,340	1,340
5	2	8	2,740	1,370
4	2	4	2,980	1,480
3	2	9	2,980	1,480
4	3	4	4,560	1,520

Source: Dudek, C., *Notes on Work Zone Capacity and Level of Service*, Texas Transportation Institute, Texas A&M University, College Station, Texas (1984)

BY OBTAINING HOURLY TRAFFIC COUNTS FOR A PARTICULAR ROADWAY (WITH A MINIMUM OF A 48-HOUR AUTOMATIC TRAFFIC RECORDER (ATR) COUNT), THIS WILL HELP TO DETERMINE AT WHAT TIMES OF THE DAY OR NIGHT A CERTAIN NUMBER OF LANES MAY BE CLOSED.



Notes
for
Traffic Management

FIGURE GEN-1
GENERAL GUIDELINES

CO31 – Reynolds Hills, Inc.

Nancy S. Vann, President
Reynolds Hills, Inc.
201 Union Avenue
Peekskill, New York 10566
October 12, 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426
VIA ELECTRONIC SUBMISSION

Re: Docket Nos. CP14-96-000 and PF13-16-000

Dear Secretary Bose:

Reynolds Hills, Inc. ("Reynolds Hills"), by and through its President, Nancy S. Vann submits these comments on the above captioned project (the "Pipeline"). Our comments respond to on information in the Draft Environmental Impact Statement ("Draft EIS") issued by the Federal Energy Regulatory Commission ("FERC") on August 6, 2014, and letters and supplemental information from the U.S. Army Corps of Engineers (the "Army Corps"), Spectra Energy Partners, LP ("Spectra") and its wholly owned subsidiary Algonquin Gas Transmission LLC ("Algonquin").

CO31-1 | As property owners, we are very concerned about the environmental impacts of this proposed 42-inch-diameter high-pressure natural gas pipeline that would be modified, expanded, and constructed through Reynolds Hills property. We request that no permits be issued and that a Supplemental Draft EIS be prepared and made available for a public comment period of at least three months. We also request that suitable consideration be given to alternate route and no-build options.

Reynolds Hills

Reynolds Hills is a non-profit summer bungalow community located in the City of Peekskill and in the Town of Cortlandt, both in Westchester County, New York.

Our historic community was established in 1929. There are 72 individual cottages, a community social hall, a swimming pool, a tennis court, and an area of separate community gardens. Much of Reynolds Hills property is woodlands and wetlands. Most, but not all of the cottages are three-season homes; some occupied only on weekends, but many occupied full time between April 1st and November 15th. Several homes are year-round residences. Members of the community include descendants of the original founders, young families, hikers, kayakers, gardeners and senior citizens seeking an undisturbed place to enjoy nature. Our community rules have been established to protect the current natural and historic nature of our property - and under those rules no further development of any kind is permitted.

CO31-2 | The Pipeline route that Algonquin proposes runs through a wetland and across Dickey Brook on our property. It would severely disrupt a wetland and a Class C brook on our property and would forever alter our community and negate the reason for our community's existence – its environmental aesthetic and place to commune with nature and friends in a small community in northern Westchester County. These results are at odds with the Clean Water Act requirements for wetlands.

CO31-3 | Wetlands

The Draft EIS is fundamentally deficient in delineating wetland and analyzing impacts on them. Our wetland area is not only important in its own right but is an important supporting habitat for our woodlands. The wetland is in a ravine and borders Dickey Brook. Construction in the wetland would have an impact on the brook as well, which is important to area drainage including flood control. If the pipeline

CO31-1 See the responses to comments FA4-1, FA6-5, and SA1-12. Also, section 3.1 of the EIS addresses the no-build alternative and section 3 of the EIS addresses numerous alternatives to the Project facilities.

CO31-2 See the responses to comments CO13-1 and CO13-8.

CO31-3 See the responses to comments CO13-1, CO13-8, CO13-9, SA1-5, LA9-6, LA23-24, and CO22-7.

CO31 – Reynolds Hills, Inc. (cont'd)

CO31-3
(cont'd)

is constructed as proposed, we expect that runoff and silt would lead to additional flooding of Dickey Brook, further impacting the wetlands. Additionally, compaction of our soil from the proposed temporary access roads and heavy equipment will reduce the ability of rain water to recharge groundwater supplies. Expanding the pipeline will create a new conduit for water through the gravel surrounding the pipeline, altering the hydrologic pattern and degrading the quality and quantity of the water in the wetland area and affecting the outflow into the Hudson River.

The Draft EIS consideration of wetlands is insufficient in the following respects:

- Field Sampling Plan for potential soil contamination not provided
- Non-saturated wetlands not identified
- Insufficient analysis of impacts to vernal pools
- Disturbance to habitats adjacent to affected wetland areas and incremental fragmentation of habitat not adequately evaluated
- Wetlands are sinks and transformers of phosphorus but the Draft EIS does not include a pollutant loading analysis on this subject.

Delineation. The wetland delineation, as provided by Algonquin, is not accurate because it does not appear to include all of the relevant land. There are areas of non-saturated wetlands that have not been included and the wetlands within the Reynolds Hills are part of a larger wetland area that is functionally connected by Dickey Brook. Those associated areas include areas within the Blue Mountain Reservation, which are considered separately in the Draft EIS. We believe that the entire Dickey Brook system needs to be mapped and delineated as a single wetland area. **We formally request that FERC and the Army Corps cause this wetland complex to be mapped and delineated, and that such efforts be conducted by an independent third party (and be subject to public review and comment).**

Construction Area Setbacks. In Table 4.4.4-1 Algonquin identified numerous areas, including in Reynolds Hills, where it believed that the 75-foot right-of-way was insufficient to accommodate its wetland construction—and that a wider right-of-way was necessary. Without considering the full scope of the environmental impacts on these non-saturated wetlands, and without providing any data or methodology to support its determination, the Draft EIS simply concludes that Algonquin's modification requests for a wider right-of-way are justified. Further, the Draft EIS acknowledged that Algonquin's Erosion & Sediment Control Plan was not consistent with FERC procedures with regard to construction in site-specific non-saturated wetland conditions.

Mitigation. Despite promises of mitigation (reseeding and tree planting), this ecosystem would take decades to restore, if it ever could be. The Draft EIS states that:

Forested wetland areas not within the maintained permanent ROW impacted during construction will also be restored . . . Although these areas will remain in a wetland state, there is a **temporal time lag** associated with these areas **regaining their wetland canopy function**. Similarly, forested wetland areas that are located within the new proposed permanent ROW areas will remain in a wetland state but **will permanently lose their wetland canopy function**.

In other word, the current functionality of the wetland will be destroyed. Despite this obvious conclusion, the Draft EIS provides no real plan or timeline to actually restore the wetland areas to their currently ecologically relevant and productive functions.

This analysis does not take into consideration the impact of wetland loss, particularly forested wetland, on adjacent areas. The wetland and the Dickey Brook waterway on the Reynolds Hills property serve many functions. Wetlands under normal circumstances support, vegetation typically adapted to live in saturated soil conditions. They provide food, shelter, drinking water and breeding grounds for many species that are important for an intact ecological system and are a source of significant biodiversity. The presence or absence of protected species on our property in the Final Survey Reports have been marked privileged and confidential, so they have not been made available for review and public comment. However, at least

CO31 – Reynolds Hills, Inc. (cont'd)

CO31-3 (cont'd)	<p>seven protected species are known to live in these Pipeline areas. The Draft EIS is notable for allowing consultations with relevant agencies like United States Fish and Wildlife to occur and their Biological Assessments to be completed prior to construction. The time period for these consultations are after the public comment closes and forecloses public review of a critically important biodiversity issue – protection of species, particularly threatened, endangered, or species of special concern.</p> <p>Wetlands also provide flood control and drainage for our roads and homes and improve water quality. The ravine and wetland area, including the forested wetlands, provide a natural sound and air quality barrier that gives our community its distinctive character.</p>
CO31-4	<p>Impacts on Dickey Brook</p> <p>Sedimentation, erosion, and potential contamination of Dickey Brook during construction will lower water quality in our area and in the Hudson River and emergency events during Pipeline operation could have a catastrophic effect on that river. If the Pipeline is constructed as proposed, we expect that runoff and silt would lead to additional flooding of Dickey Brook, making our community's single entry road impassable.</p> <p>The Draft EIS is insufficient in the following respects:</p> <ul style="list-style-type: none"> • It has not established a baseline for water quality in Dickey Brook and elsewhere. • Plans for addressing trench dewatering not developed. • The impacts of flooding during the construction period have not been evaluated. • The impacts of the outflows into the Hudson River during the construction period or following a pipeline leak or other emergency incident have not been detailed. <p>Water Quality. The proposed Pipeline would cross the Hudson River, an American Heritage River, as well as water bodies located within sub-basin level watersheds of the Lower Hudson Watershed. These include crossings at Dickey Brook, which is classified as a freshwater stream that transitions to an estuarine environment along its lower reach where it joins the Hudson River. During construction the outflows into the Hudson River would be degraded by silt and toxic contaminants from the removal of the existing 26-inch pipeline. American Heritage Rivers, like the Hudson River, are so designated because they have characteristics that render them distinctive or unique. The streams and wetlands that protect the river will be adversely affected by the Pipeline, particularly during construction, and the long-term impacts are uncertain.</p> <p>Construction Damage. The Draft EIS does not mention aesthetic qualities of the stream (which is permanent not intermittent). Crossing Dickey Brook could be a difficult job. There is very little room for an expanded right of way because the stream is at the low point of the hillsides. The sides of the stream are very steep. Dickey Brook would lie completely within the work area in Reynolds Hills as the Pipeline runs along it. Attempting to modify the stream to allow a larger pipeline into the right of way would entail the use of equipment that is far too large to manage the narrow access between the homes and then to the stream. Serious damage to the stream and surrounding homes would be the result of such work. Dickey Brook, and associated wetlands, would be seriously undermined. These environmental violations are of particular concern because violations of the Clean Water Act, particularly releasing sediment from pipeline construction and maintenance has been the subject of enforcement actions brought recently against the applicant by the New York State Department of Environmental Conservation.</p>
CO31-5	<p>Environmental Justice</p> <p>Low income communities and communities of color have historically been overburdened by a concentration of environmental facilities. Air pollution from energy-generating facilities, and water pollution from waste treatment facilities and other undesirable land uses have been disproportionately situated in those communities.</p>

CO31-4

See the responses to comments SA11-10, LA 9-6, CO13-1, and CO13-8. Water quality of sensitive waterbodies is discussed in section 4.3.2.2 of the EIS. Note that the existing 26-inch-diameter pipe within the Hudson River is not being removed. Visual resources are discussed in section 4.8.7 of the EIS.

CO31-5

See the responses to comments FA4-15 and LA9-16. Further, see the response to comment SA4-9 regarding the identification of attainment status for all project areas.

CO31 – Reynolds Hills, Inc. (cont'd)

CO31-5 (cont'd) **Important Protections.** The United States Environmental Protection Agency (EPA) and the New York State Department of Environmental Conservation (NYSDEC) define environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

Meaningful involvement means that people have an opportunity to participate in decisions about activities that may affect their environment and/or health; the public's contribution can influence the regulatory agency's decision; their concerns will be considered in the decision making process; and the decision makers seek out and facilitate the involvement of those potentially affected.

Peekskill is an Environmental Justice city according to a 2011 report that found the following:

- Peekskill has a population of approximately 25,000, with the majority of its population being African American or Latino.
- Neighborhoods within a 12.5-mile radius of downtown Peekskill are home to at least 2 hazardous waste handlers, 7 hazardous waste facilities, 19 solid waste facilities, 27 major and minor air polluters, 87 industrial surface water sites, 20 municipal surface water sites, 15 toxic release facilities, 47 hazardous waste handlers, and 23 toxic release sites. The majority of the toxic release sites, hazardous waste, solid waste facilities and wastewater facilities are located in predominantly African-American communities.
- Health data comparing Peekskill to surrounding communities indicates that Peekskill has unusually high rates of asthma, including emergency room visits and hospitalizations, respiratory cancers, death due to cardiovascular disease, and high incidents of low birth weight.

Construction Impacts. The Pipeline would have adverse impacts on neighborhoods, including Reynolds Hills, that are already home to more than their fair share of hazardous facilities. The adverse impacts on the environmental justice communities associated with the construction of the Pipeline would include the temporary increases in dust, noise, and traffic from the construction and ongoing impacts on wetlands, air and water quality once the pipeline is completed.

Analysis of Burdens. Other than acknowledging that two census block groups crossed by the Pipeline in Westchester County have minority populations greater than the environmental justice minority threshold, the Draft EIS lacks any meaningful analysis of environmental justice issues. Health data comparing Peekskill to surrounding communities indicates that Peekskill has unusually high rates of negative health impacts. This omission is unacceptable. Further, Westchester County is already burdened because its communities live in a marginal attainment zone for ozone under the Clean Air Act. The lack of a full analysis of the discarded alternatives, prevents meaningful understanding of the relative burdens of environmental justice communities. While the adverse environmental impacts would occur along the entire pipeline route, the Draft EIS does not provide sufficient analysis to effectively determine if the Pipeline would result in a disproportionately high and adverse impact on these minority and low-income populations and disproportionately low benefits to those groups.

CO31-6 **Allocation of Benefits.** Algonquin's purpose stated in the Draft EIS ("to expand its existing pipeline system from an interconnection at Ramapo, New York to deliver up to 342,000 dekatherms per day (DKT/d) of natural gas transportation service to the Connecticut, Rhode Island, and Massachusetts markets") seems inconsistent with Spectra's "Atlantic Bridge" and "Maritimes & Northeast" pipeline expansions and the Iroquois Gas "South-to-North (SoNo) Project," which will be capable of delivering gas from the AIM project to proposed Canadian export terminals rather than to end users in New England.

CO31-6

See the responses to comments FA3-5, LA23-16, and CO15-4.

CO31 – Reynolds Hills, Inc. (cont'd)

CO31-7 **Mitigation.** The Draft EIS does not include a final Compensatory Mitigation Plan ("CMP"). The Draft EIS recommends that prior to construction in New York, Algonquin file its final CMP in consultation with USACE and NYSDEC. This delay deprives the community of its right to comment on the CMP. **Importantly, we feel that any compensatory measures rather than direct restoration, are inconsistent with Environmental Justice considerations. It is inappropriate to leave non-mitigated burdens in an environmental justice community while making environmental improvements elsewhere.**

Alternate Routing

Presumption of Alternates. We note that under 40 CFR 230.10 (a), "no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences." Section 230.10 (a) (3) states that, for "non-water dependent" projects, "practicable alternatives that do not involve special aquatic sites are presumed to be available, unless clearly demonstrated otherwise." However, there is no alternative presented in the Draft EIS to avoid the construction impacts of running adjacent to and crossing Dickey Brook on our property.

CO31-8 **Easement Considerations.** We believe that the existing easements are not large enough to accommodate the larger pipe, much less the expansive 75-foot wide construction area. Section 230.10 (a) (2) further states that "If it is otherwise a practicable alternative, an area not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed in order to fulfill the basic purpose-of the proposed activity may be considered." Algonquin's inadequate easements on our property should not preclude an alternate route where no easement exists.

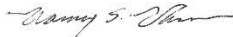
CO31-10 **Non-Segmentation.** A much broader range of alternatives should also be considered based on the Algonquin proposals for the Atlantic Bridge, Maritimes & Northeast and other pipeline expansions and modifications.

Conclusion

CO31-11 The absence of sufficient analysis of the Pipeline's impact on environmental justice issues, on wetland degradation and destruction, and on water bodies along the pipeline route deprived the public of a meaningful opportunity to comment.

CO31-12 The Draft EIS does not meet the laudatory requirements of the National Environmental Policy Act that governs this proposal review because significant analyses and information is omitted from the Draft EIS. Plainly stated, the Draft EIS fails to take the requisite hard look at the fairness of the Pipeline's environmental impact. These issues are relevant and must be considered by FERC in its deliberations about all other issues. A full analysis of alternative routes and the no-build option with at least three months comment time should be provided before any further approvals are given.

Respectfully Submitted,



Nancy S. Vann
President, Reynolds Hills, Inc.
201 Union Avenue
Peekskill, New York 10566

CO31-7 Comment noted. Compensatory mitigation is in addition to, not in lieu of, requirements for restoration of wetlands and waterbodies required in the FERC Procedures. See also the responses to comments FA3-3 and CO13-8.

CO31-8 The proposed crossing of Dickey Brook is located in an area where Algonquin would remove the existing pipeline and install the new pipe using take-up and relay techniques. The new pipeline would be located within the existing pipeline right-of-way and no new permanent easement is proposed. Algonquin proposes to use a dry crossing method to cross the brook and would employ other mitigation measures to avoid or minimize wetland and waterbody impacts. For these reasons, we do not believe an alternative route is warranted in this area. Any alternative would likely cross the creek in an area outside of the existing right-of-way and would require new right-of-way and disturbance that would increase the impact of the crossing.

CO31-9 The proposed crossing of the Reynolds Hills property is located in an area where Algonquin would remove the existing pipeline and install the new pipe using take-up and relay techniques. The new pipeline would be located within the existing pipeline right-of-way and no new permanent easement is proposed. For these reasons, we do not believe an alternative route is warranted in this area. Any alternative would likely cross this or another property in an area outside of the existing right-of-way and would require new right-of-way and disturbance that would increase the impact of the Project.

CO31-10 See the responses to comments FA3-5 and LA23-16.

CO31-11 See the responses to comments FA4-1 and FA6-5.

CO31-12 See the responses to comments FA4-1 and FA6-5.

CO32 – Fossil Free Rhode Island

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<p style="text-align: right;">Lisa Petrie Member, Fossil Free RI 11 Debra Drive Carolina, RI 02812</p> <p>September 29, 2014</p> <p>Ms. Kimberly D. Bose, Secretary Federal Energy Regulatory Commission 888 First Street NE, Room 1A Washington, DC 20426</p> <p>RE: COMMENTS ON BELHALF OF FOSSIL FREE RHODE ISLAND IN OPPOSITION TO THE ALGONQUIN INCREMENTAL MARKET (AIM) PROJECT, DOCKET # CP14-96</p> <p>Dear Secretary Bose:</p> <p>CO32-1 Fossil Free Rhode Island finds that the Federal Energy Regulatory Commission’s Draft Environmental Impact Statement (DEIS) for this project is fatally flawed and urges that it be withdrawn until the following deficiencies have been fully addressed:</p> <p>CO32-2 I. Impacts of escalating fracking operations in Pennsylvania:</p> <p>This project, which is designed to transport an increased volume of fracked gas from the Marcellus Shale in Pennsylvania to southern New England, will clearly lead to an expansion of fracking operations in the Marcellus Shale. Therefore, all the impacts of fracking, both for communities in Pennsylvania and for the global climate, will be exacerbated as a direct result of the project, and these impacts must be taken into account in evaluating the overall environmental impact of the project and whether or not the likely benefits outweigh the risks.</p> <p>CO32-3 A. Global Warming Impacts:</p> <ul style="list-style-type: none"> The DEIS fails to take into account the greenhouse gas impacts of increased fracking in Pennsylvania, which will further exacerbate the already serious risk of severe, and potentially catastrophic, global warming impacts for Rhode Island, for the region, and for the world as a whole. Fracking involves significant leakage of methane, the extent of which has been seriously underestimated by the Environmental Protection Agency. Furthermore, in calculating greenhouse gas emissions from the project (in terms of CO2 equivalent), the DEIS assumes that methane is 25 times as potent as carbon dioxide (CO2), whereas the Intergovernmental Panel on Climate Change (IPCC) recently determined that methane is actually 34 times as potent as CO2 over a 100 year time frame and 86 times as potent over a 20 year time frame. The IPCC further states that <u>there is no scientific basis for using the 100 year time frame rather than shorter time frames, such 20 years.</u> In the same article, noted physicist and former Acting Assistant Secretary of Energy Joseph Romm states, “Given that we are approaching real, irreversible tipping points in the climate system, climate studies should, at the very least, include analyses that use this 20-year time horizon.” 	

CO32-1 Comment noted.

CO32-2 See the response to comment FA4-24.

CO32-3 See the responses to comments FA4-24, CO7-3, and CO12-13. Regarding the global warming potential (GWP), at present, the EPA accepted the GWP value for methane is 25 over a 100-year period. FERC appropriately selected this value because this is the value the EPA established on November 29, 2013 for reporting of GHG emissions. The EPA supported the 100-year time period over the 20-year period in its summary of comments and responses in the final rulemaking, 2013 Revisions to the Greenhouse Gas Reporting Rule and Final Confidentiality Determinations for New or Substantially Revised Data Elements, establishing the methane GWP at 25 (78 Fed. Reg. 71,904). Similarly, in this final rulemaking, the EPA supported the adoption of the published IPCC’s Fourth Assessment Report GWP values over the Fifth Assessment Report values. The EPA acknowledged the Fifth Assessment Report could lead to more accurate assessments of climate impacts in the future; however, when balanced with the benefit of retaining consistency across national and international programs, the potential gain in accuracy does not justify the loss of consistency in reporting and likely would cause stakeholder confusion among the various GWPs used in different programs. The EPA identified that it may consider adoption of the Fifth Assessment Report GWPs in the future, at which time we will ensure that FERC staff request the use of any revised EPA GWP values in future NEPA evaluations.

CO32 – Fossil Free Rhode Island (cont'd)

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CO32-3
(cont'd)

In a letter to the Obama Administration objecting to the use of natural gas as a bridge fuel, a number of leading scientists expressed the same concern:

Because use of the 100-year Global Warming Potential (GWP) spreads out the strong near-term warming influence of methane over a period roughly ten times its atmospheric lifetime, the present reliance on GWP-100 in identifying optimal actions obscures the potential for cutting emissions of methane (and other short-lived warming agents) to slow the pace of climate change. To facilitate better development of emissions-reduction policies that will contribute to limiting both near- and long-term climate change, we recommend that the Administration and agencies adopt and require the use of both the 20-year and the 100-year GWPs for methane. (See: http://www.eenews.net/assets/2014/07/30/document_gw_02.pdf.

Indeed, **the most reliable current research concludes that, over a 20-year time frame, "both shale gas and conventional natural gas have a larger GHG footprint than do coal or oil, for any possible use of natural gas and particularly for the primary uses of residential and commercial heating. The 20-year time period is appropriate because of the urgent need to reduce methane emissions over the coming 15-35 years."** (See Wiley, <http://onlinelibrary.wiley.com/doi/10.1002/ese3.35/pdf>.)

Therefore, **the greenhouse gas emissions of this project should be recalculated, using a GWP of 86 for methane and factoring in the additional methane emissions due to increased fracking in Pennsylvania, with the most up-to-date methane leakage data from independent scientific studies.**

We are convinced that, when the full global warming impacts attributable to this project have been properly assessed, it will become apparent that the risks greatly outweigh any anticipated benefits. Indeed, greenhouse gas expert Robert Howarth of Cornell University warns that, **if we fail to control methane emissions, we will pass the tipping point for runaway global warming within the next 15 to 35 years, even with aggressive cuts in carbon dioxide emissions:** <http://www.reportingclimatescience.com/news-stories/article/control-methane-now-greenhouse-gas-expert-warns.html>

Since the expected lifetime of this project is clearly much longer than 15 years, it can be expected to place the region and the world at increased risk of runaway global warming.

- In fact, **given the seriousness of the crisis we face, there is an urgent need for dramatic cuts in carbon emissions across the board starting immediately. Any new fossil fuel infrastructure flies in the face of this imperative, as is underscored by a warning from the International Energy Agency in 2011 that "anything built from now on that produces carbon will do so for decades, and this 'lock-in' effect will be the single most important factor increasing the danger of runaway climate change."** The construction of an infrastructure with an estimated lifetime exceeding fifty years at a time when humanity has little more than a decade to kick its fossil fuel habit is criminally irresponsible, in particular when it is clear that [this will inhibit the construction of a network of distributed renewable utilities.](#)
- Furthermore, by locking Rhode Island into a long-term dependence on natural gas as an energy source, the project will undermine the objectives of the newly passed "Resilient Rhode Island

CO32 – Fossil Free Rhode Island (cont'd)

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CO32-3 (cont'd)	Act," which calls for ambitious cuts in our state's greenhouse gas emissions over the coming years, and may make it impossible for Rhode Island to comply with this critically important new law.
CO32-4	<p>B. Other Impacts of Increased Fracking in Pennsylvania:</p> <ul style="list-style-type: none"> The local public health implications of fracking are poorly understood, but the preliminary evidence, including some peer reviewed studies, strongly suggests that fracking can cause serious health problems. (See http://concernedhealthny.org/wp-content/uploads/2014/07/CHPNY-Fracking-Compendium.pdf) There should be no further expansion of fracking until the potential health impacts for residents of surrounding areas have been fully assessed through independent research, including longitudinal studies where appropriate. Another serious concern with fracking is the seizure of land from its occupants via eminent domain in order to build the wells and associated infrastructure (gathering lines, compressor stations, etc.) http://www.stuarthsmith.com/feds-pave-way-for-fracking-industry-to-perpetrate-biggest-land-grab-in-u-s-history/. This revocation of individuals' property rights might be justifiable if the expansion of fracking would serve the public welfare in the long term, but in fact the opposite is true: the expansion of fracking undermines the public welfare and threatens our collective health and safety by exacerbating the threat of runaway global warming as well as threatening the air and water quality in surrounding communities. <p>II. Local Impacts of Expanding the Compressor Station in Burrillville:</p>
CO32-6	<ul style="list-style-type: none"> Maps from the Rhode Island Department of Health show an increased incidence of asthma insurance claims in the section of Burrillville near the gas compressor station. It is not clear that the current facility is causing this, but this matter should be thoroughly investigated before the expansion project is approved.
CO32-7	<ul style="list-style-type: none"> The compressor station buildout would also lead to an increase in noise and in the risk of fire and explosion for residents of the surrounding area. <p>III. Purported Benefits of the Project are Questionable at Best:</p>
CO32-8	<ul style="list-style-type: none"> The chief justification for the project is the claim is that the region suffers from a shortage of natural gas and is paying exorbitant prices because inadequate pipeline capacity has produced a bottleneck in the delivery system. Spectra Energy Corp. claims that the proposed pipeline expansion will increase the supply of gas to the region, thus lowering the prices paid by local residents for electricity and for heating their homes with natural gas. <p>However, <u>the available evidence strongly suggests that the gas will ultimately be shipped overseas, where its price is much higher than in the US, and that this will lead to higher, not lower, prices for the region.</u> The fact that the proposed pipeline has spurs ending off shore in the Atlantic Ocean provides further evidence that much of the gas is destined for export.</p>

CO32-4 See the response to comment FA4-24.

CO32-5 See the response to comment FA4-24. We also note that hydraulic fracturing associated with exploration and production of natural gas is not subject to the FERC's jurisdiction. Therefore, the acquiring of property for such actions is not subject to the Commission's authority.

CO32-6 See the responses to comments SA4-1 and SA4-10.

CO32-7 We disagree with the commentor's characterization of impacts at the Burrillville Compressor Station. As shown in section 4.12.3 of the EIS, available data show natural gas transmission infrastructure to be a safe, reliable means of energy transportation. Further, table 4.11.2-5 of the EIS demonstrates that the modifications to the Burrillville Compressor Station would not result in any perceptible increase in noise at any nearby noise sensitive areas.

CO32-8 See the response to comment CO15-4.

CO32 – Fossil Free Rhode Island (cont'd)

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CO32-9	<ul style="list-style-type: none"> Arguments that this project would enhance our energy security and/or energy independence by meeting more of the region's energy needs with domestically sourced natural gas, are irrelevant in light of the fact that, as natural gas exports increase as a result of this and other similar projects, <u>the gas market will be increasingly globalized like the oil market</u>, such that any change in price or supply anywhere in the world will impact prices here at home.
CO32-10	<p>IV. Alternative ways of meeting energy demand in Southern New England have not been adequately explored:</p> <ul style="list-style-type: none"> The DEIS states that alternatives such as energy efficiency and renewables could not meet the region's energy needs. However, <u>researchers at Stanford University and the University of California at Davis have concluded that the world can meet all of its energy needs with renewables—chiefly wind, water, and solar power—as early as 2030, and that the chief obstacle to achieving this objective is none other than the fossil fuel industry itself:</u> http://news.stanford.edu/news/2009/october19/jacobson-energy-study-102009.html. <p>In light of this research, and the overwhelming imperative for swift and dramatic cuts in our greenhouse gas emissions <u>the Environmental Impact Statement must include a thorough assessment of the potential of alternative approaches—specifically, a combination of energy efficiency and a rapid ramping-up of renewable energy production—to meet the region's energy needs.</u></p>
CO32-11	<p>V. This project is but one of three proposed projects—the Algonquin Incremental Market Project, the Atlantic Bridge Project, and the Access Northeast Project—that would expand the Algonquin Pipeline system and increase its carrying capacity over the course of the next few years. We contend that <u>these 3 projects should be considered as a single project, with the cumulative impacts of all 3 assessed simultaneously. The failure to do so may constitute segmentation, which is a violation of federal law.</u></p> <p><u>CONCLUSION:</u></p>
CO32-12	<p>Fossil Free Rhode Island is strongly opposed to this project because it poses major risks to the public in the form of localized harms in Pennsylvania due to fracking, in Burrillville due to the buildout of the compressor station there, and an increased risk of catastrophic global warming for the region and the world due to the associated greenhouse gas emissions. Furthermore, the purported benefits of the project are questionable at best, and necessity has not been demonstrated because alternative means of meeting the region's energy needs have not been fully explored.</p> <p>We strongly urge that the DEIS be withdrawn until all these shortcomings have been addressed, and we believe that, when these concerns have been taken into account, the project will be rejected.</p>

CO32-9 Section 1.1 of the EIS describes the purpose and need for the AIM Project.

CO32-10 See the response to comment CO7-5.

CO32-11 See the responses to comments FA3-5 and LA23-16.

CO32-12 Comment noted.

CO33 – Food and Water Watch

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29 September 2014

Food & Water Watch Comments on the Draft Environmental Impact Statement for Algonquin Incremental Market Project (CP14-96-000)

Kimberly D. Bose,
Secretary Federal Energy Regulatory Commission
888 First Street NE, Room 1
Washington, DC 20426

RE: Draft Environmental Impact Statement
Algonquin Incremental Market (AIM) Project, Docket #CP14-96-000

To: Kimberly Bose and the Federal Energy Regulatory Commission:

CO33-1 Food & Water Watch requests that the draft Environmental Impact Study (DEIS) issued on August 6, 2014 be withdrawn and a new supplemental DEIS be issued with additional time for public comment. The National Environmental Policy Act (NEPA) requires a full analysis of a project's impacts "whether direct, indirect, or cumulative." Our main issues are outlined below.

New Spectra Algonquin Project Announced after New England FERC Hearings

CO33-2 The Federal Energy Regulatory Commission (FERC) is bound by NEPA to consider the combined environmental impacts of related existing and reasonably foreseeable pipelines within FERC's jurisdiction. Spectra Energy announced a third project on its Algonquin line called Access Northeast.

On September 16, 2014, Spectra Energy announced its plans with Northeast Utilities for a proposed Access Northeast expansion project along its Algonquin and Maritimes and Northeast East pipelines. The project is estimated to cost roughly \$3 billion and was outlined in a June 27, 2014 letter to the New England States Committee on Electricity (NESCOE). Plans are for the expanded pipeline to be in service in November of 2018. The DEIS includes no mention of the Access Northeast project. A supplemental DEIS should be issued with a new public comment period.

Need for the Project

CO33-3 Massachusetts is in the process of reviewing its energy needs and commitments to cutting greenhouse gas emissions. While proponents of the project cite lower gas prices for home heating, the Boston Globe reported on September 25, 2014 that Massachusetts gas service supplier, National Grid does not expect higher residential gas prices for the coming winter.

"National Grid, for example, estimated that natural gas heating costs for consumers would drop 1 to 3 percent. That's because gas supplies for home heating are purchased

CO33-1 See the responses to comments FA4-1, FA6-5, and SA1-12.

CO33-2 See the response to comment LA23-16.

CO33-3 The local distribution company in Boston that is a prospective shipper on the AIM Project has expressed its need for the Project by executing a precedent agreement with Algonquin, as have other shippers. Whether National Grid's load needs have been properly forecast is an issue more appropriately brought up with the state agency that regulates local gas distribution companies, the Massachusetts Department of Public Utilities.

CO33 – Food and Water Watch (cont'd)

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CO33-3
(cont'd)

under long-term contracts arranged far in advance, so utilities have the advantage of locking in lower rates. Power plants, on the other hand, often buy shorter-term and are more exposed to price movements in the spot markets."

<http://www.bostonglobe.com/business/2014/09/25/national-grid-projects-percent-increase-for-winter-electricity-rates/gVya8QtLFa4nCRJLmy0SII/story.html>

There is no need for the AIM project.

The Possibility of Export

CO33-4

The DEIS claims there are no export facilities on the "east coast," which is strictly true if that refers only to the east coast of the United States. Canaport is approved in New Brunswick province. That facility connects to Spectra's Maritime and Northeast pipeline.

Kinder Morgan, a Spectra competitor, states the following on their website regarding the possibility of export related to their proposed Northeast Direct project on the Tennessee Gas pipeline that could feed the same Maritime and Northeast pipeline as the Algonquin pipeline, raising the same issues for Spectra's AIM project.

"...Under the Natural Gas Act, Tennessee is an open-access interstate pipeline system subject to the regulations and policies of the FERC, which require that transportation capacity be allocated on a not unduly discriminatory basis. Under FERC's regulations and policies, Tennessee cannot discriminate among customers based on the ultimate destination or use of the gas, such as the Northeast vs. Canada or another foreign country (via export of LNG). The ultimate destination of the gas and volumes associated is within the sole control of the project customers.

The segments of the Atlantic Canada natural gas market are similar to those in the Northeast. They include local distribution companies, electric utilities, industrial companies, power generators and potential LNG export projects. There are currently four proposed LNG export projects in Atlantic Canada and one LNG export project in northern Maine that could find capacity on the NED Project useful to serve their proposed LNG export facilities.

http://www.kindermorgan.com/business/gas_pipelines/east/ncenergydirect/faq.cfm

West Roxbury and Part of Dedham Are Identified as Environmental Justice Communities

CO33-5

The DEIS states:

In support of the environmental justice populations, the Environmental Justice Policy identifies a number of specific services to be provided to environmental justice populations by the Secretary of the energy and environmental affairs agencies and other related state agencies, including greater public participation and outreach. To date, Algonquin has reached out to the public through various forums, particularly

CO33-4

While another project under development, that may ultimately be proposed before the Commission (we note that Tennessee Gas Pipeline has not filed an application for the Northeast Direct Project), could export some of its volumes to Canada if it has the appropriate interconnections with a facility authorized for Section 3 export. However, 100 percent of the volumes for the AIM Project are for local distribution and municipality use. See also the response to comment CO15-4.

CO33-5

See the responses to comments FA4-15 and FA4-16 regarding environmental justice communication. Further, see the response to comment FA6-5 for a list of the public input opportunities offered. Algonquin conducted the additional landowner informational meeting in West Roxbury on September 3, 2014 at the request of the offices of Mayor Walsh and City Councilor Matt O'Malley.

CO33 – Food and Water Watch (cont’d)

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CO33-5
(cont'd)

landowners, local community groups, and public officials, to inform them about the Project and has also prepared a Public and Agency Participation Plan for the AIM Project. (4-193)

We have seen no evidence of any “greater public participation,” in fact, notification of Spectra’s September 3, 2014 Open House, two days after Labor Day, was received by many residents and attendees just that same morning.

Inadequate Assessment of Impact on Property Values and Mortgage Rates

CO33-6

Mortgage companies have told property owners in other states that they will recategorize properties from residential to commercial if pipelines are constructed on the property, thereby increasing mortgage rates. Homeowners have difficulty selling homes where mortgage companies are reluctant to write mortgages.

Food & Water Watch cited the following issues at the Massachusetts and New York hearings held by FERC staff:

CO33-7

1. The DEIS fails to adequately consider the combined environmental impacts of related existing and reasonably foreseeable pipelines within the FERC’s jurisdiction.

The DEIS fails to analyze the cumulative impact of the related Atlantic Bridge Project, which will involve similar modifications to sections of pipeline in New York, Connecticut, Rhode Island, and Massachusetts. Spectra has announced on its website as part of the Atlantic Bridge project plans for a new compressor station in Weymouth, MA, as well as 13 miles of additional 30” pipeline, some of which are potentially within 15 miles of the AIM project.

The environmental impacts of both the AIM Project and the Atlantic Bridge Project should be considered together in the DEIS.

We would like an opportunity to review and comment on an analysis of the cumulative impacts of related existing and reasonably foreseeable pipelines, including the Atlantic Bridge Project.

CO33-8

2. The DEIS falls far short of adequately addressing the risk of radon exposure associated with burning of natural gas from the proposed Project.

Radon is a naturally occurring radioactive material that is the leading cause of lung cancer among non-smokers in the United States, killing more than 20,000 Americans each year. It takes about four days of radioactive decay to cut radon concentration in half. So, shale gas that is piped directly into kitchens just days after extraction could bring a special delivery of high levels of DNA-damaging radioactive radon to American consumers, increasing their cancer risk. The USGS emphasizes

CO33-6 See the response to comment LA5-25.

CO33-7 See the response to comment FA3-5.

CO33-8 We disagree. The section 4.11.1.3 of the EIS analyzes several studies regarding radon levels from natural gas pipeline transportation, and bases its conclusion of no significant impacts on a study that measured radon concentrations from a pipeline that contained source gas from the Marcellus region and the resulting levels were 0.2 to 0.5 percent of the lowest EPA in-home recommended level. See also the responses to comments SA4-4 and CO19-2.

CO33 – Food and Water Watch (cont’d)

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CO33-8
(cont'd)

that additional data is needed to better understand the radon risk associated with shale gas, yet FERC has rejected concerns raised about radon exposure. (See: <http://www.foodandwaterwatch.org/factsheet/natural-gas-pipelines-problems-from-beginning-to-end/>)

The DEIS fails to fully consider the risk of radon exposure to those served by the proposed Project. The DEIS improperly concludes that, because local, state and federal entities establish and enforce radon exposure standards, the risk of exposure from the proposed Project must be insignificant.

The absence of any meaningful discussion about the risk of radon exposure associated with in-house burning of natural gas from the proposed Project deprived the public of a meaningful opportunity to comment.

We would like to have an opportunity to review and comment on a complete analysis of the risk of radon exposure associated with burning of natural gas from the proposed Project.

CO33-9

3. The DEIS fails to address the impact the AIM Project would have on natural gas development. The DEIS omits any substantive discussion of foreseeable gas development, concluding, without discussion, that the resources that may be affected by the Marcellus shale development would not be affected by the Project and that the Project would not be affected by the development in the Marcellus region. The DEIS fails to address the indirect impacts of induced gas development and fails to consider how the environmental impacts of the proposed Project may be cumulated with the impacts of gas development in the region.

The complete absence of analysis around the indirect or cumulative impacts of the Project on natural gas development has clearly deprived the public of a meaningful opportunity to comment on the proposed Project. **A revised DEIS must be prepared for review and public comment to analyze any potential impact the project would have on natural gas development.**

CO33-10

4. The DEIS also fails to address potential impacts on the Catskill Aqueduct. The Proposed Stony Point to Yorktown Take-up and Relay segment of the proposed project plans to cross the Catskill Aqueduct, a part of the New York City water supply system. To date, Algonquin has not finalized its site-specific plan for crossing the Catskill Aqueduct and is still in consultation with the New York City Department of Environmental Protection regarding the crossing and evaluating an alternative route that would relocate the segment to the south.

Algonquin's failure to finalize any site-specific plan for crossing the Catskill Aqueduct has deprived the public of any meaningful opportunity to comment on the

CO33-9

See the response to comment FA4-24.

CO33-10

See the responses to comments FA4-1, FA6-5, and SA11-9.

CO33 – Food and Water Watch (cont’d)

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CO33-10
(confd)

proposed Project. Given the obvious importance of the Catskill Aqueduct to the millions of New Yorkers that rely on it for our drinking water, the public must be able to comment on this piece of the Project. **A revised DEIS must be prepared for review and public comment to fully examine the extent of any impacts of a planned Catskill Aqueduct Crossing.**

CO33-11

The DEIS is fatally flawed and must be withdrawn. We urge the Commission to withdraw the DEIS, address all outstanding issues, and issue a supplemental DEIS which then must be submitted for public comment.

We urge FERC to reject this project.


Alex Beauchamp
Northeast Region Director
Food & Water Watch
Brooklyn, NY
abeauchamp@fwwatch.org

Karina Wilkinson
Local Coordinator
Food & Water Watch
Somerville, MA
kwilkinson@fwwlocal.org

CO33-11 See the responses to comments FA4-1 and SA1-12.

CO34 – Riverkeeper, New York’s Clean Water Advocate

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October 1, 2014

VIA ELECTRONIC FILING

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426


Re: Supplemental Comments on Algonquin Incremental Market Project Draft Environmental Impact Statement, Docket No. CP 14-96-000

Dear Secretary Bose:

Riverkeeper, Inc. (Riverkeeper) submits the following supplemental comments on the Draft Environmental Impact Statement (DEIS) for the Algonquin Incremental Market Project (Proposed Project), Docket No. CP 14-96-000. Riverkeeper is a member-supported watchdog organization dedicated to defending the Hudson River and its tributaries and protecting the drinking water supply of nine million New York City and Hudson Valley residents. Riverkeeper is actively involved in public education, advocacy, and litigation surrounding the issue of shale gas extraction and related infrastructure, particularly because of the potential impacts on New York State's drinking water supplies.


CO34-1 | As noted in Riverkeeper's September 29, 2014 comments on the DEIS, we received a copy of the Stormwater Pollution Prevention Plan (SWPPP) for the New York portions of the Proposed Project dated August 2014 from the Applicant, Algonquin Gas Transmission, LLC. Riverkeeper has reviewed the SWPPP and provided comments, attached. The SWPPP contains a number of deficiencies, which must be addressed in a revised SWPPP in order to comply with New York standards. As currently drafted, the SWPPP is not sufficient to protect against water quality degradation that may result from stormwater runoff.

For these reasons, as well as those explained in our previous comments, FERC must include a full analysis of potential stormwater impacts – including a complete, revised SWPPP – in a revised DEIS.

Sincerely,

Misti Duvall
Staff Attorney

Attachment


www.riverkeeper.org • 78 North Broadway, E House • White Plains, New York 10603 • t 914.422.4343



CO34-1 See the responses to comments FA4-1, FA6-5, and SA14-1.

CO34 – Riverkeeper, New York’s Clean Water Advocate (cont’d)

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VIA EMAIL

Mike Tyrrell
Environmental Lead
Algonquin Gas Transmission, LLC
890 Winter Street, Suite 300
Waltham, MA 02451

October 1, 2014

Re: Comments on Draft Stormwater Pollution Prevention Plan for the Algonquin Incremental Market Project

Dear Mr. Tyrrell:

Riverkeeper, Inc. (Riverkeeper) provides the following comments on the Draft Stormwater Pollution Prevention Plan (SWPPP) for the Algonquin Incremental Market Project (AIM Project or Proposed Project). Algonquin Gas Transmission, LLC (Algonquin) provided Riverkeeper with a copy of the SWPPP dated August 2014, which we received on September 2, 2014. For the reasons set forth below, Riverkeeper recommends that Algonquin revise the preliminary SWPPP to cure a number of deficiencies, discussed below.


Riverkeeper is a member-supported watchdog organization dedicated to defending the Hudson River and its tributaries and protecting the drinking water supply of nine million New York City and Hudson Valley residents. Riverkeeper is actively involved in public education, advocacy, and litigation surrounding the issue of shale gas extraction and related infrastructure, particularly because of the potential impacts on New York State’s drinking water supplies. Our comments follow.

CO34-2 I. The Invasive Species Control Plan Should Require Stabilization of Disturbed Wetlands With Native Vegetation

The SWPPP references Algonquin’s Invasive Species Control Plan (ISCP) when describing mitigation for construction related impacts to wetlands. The ISCP proposes to control the spreading of common reed, purple loosestrife, Japanese knotweed and glossy buckthorn by planting ryegrass, which is an upland species not suitable for establishment in wetlands, especially where standing water exists. In many cases, the above-mentioned invasive plant species are well established and comprise over 90% of the vegetative cover.¹ Common reed (*Phragmites*) and purple loosestrife are in fact well-suited to wetland soils and hydrology because they are obligate hydrophytes that establish and persist in such conditions.

¹ Algonquin Incremental Market Project, Resource Report 3: Fish, Wildlife, and Vegetation (Feb. 2014), Appendix F, *Invasive Species Control Plan*.

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CO34-2 See the response to comments CO22-26 and CO21-37.

**CO34 – Riverkeeper, New York’s Clean Water Advocate
(cont’d)**

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CO34-2
(cont'd) Because ryegrass is ill-suited to stabilize saturated or inundated soils, the ISCP should require seeding, planting and monitoring of native wetland vegetation where wetlands have been disturbed by construction activities.

CO34-3 II. The SWPPP Lacks a Spill Response Plan

The SWPPP lists five spill prevention control practices, but provides no spill response plan. Regardless of how sound and proactive prevention practices may be, the SWPPP must include a spill response plan to contain and remediate spills that may occur irrespective of sound prevention practices. The plan should identify appropriate authorities to be contacted in the event of a spill, as well as personnel responsible for initiating immediate response and the control practices to be implemented.

CO34-4 In addition to our comments above, Riverkeeper fully supports and incorporates herein the sections of the AIM Project comments related to the SWPPP submitted by the New York City Department of Environmental Protection in a letter dated September 29, 2014,² and the *Technical Appendix Concerning Stormwater Pollution* attached to the AIM Project comment letter from the New York State Office of the Attorney General, also dated September 29, 2014.³ Both documents highlight technical deficiencies arising from the lack of specificity in the erosion and sediment controls as presented in the SWPPP, faulty modeling calculations, and other shortcomings, as a result of which the SWPPP, as currently drafted, fails to comply with New York State erosion and sediment control standards.

For all of the above reasons, Algonquin must revise the preliminary SWPPP to address its technical deficiencies and to comply with state erosion and sediment control standards. Thank you for the opportunity to comment on this important issue.

Sincerely,



William Wegner
Staff Scientist

Cc: New York State Department of Environmental Conservation
New York City Department of Environmental Protection
Watershed Inspector General, Office of the Attorney General
Federal Energy Regulatory Commission, Docket No. CP14-96-000

² Available at: http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20140929-5292

³ Available at: http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20140930-5025

CO34-3 See the response to comment SA14-1.

CO34-4 See the response to comment SA14-1.

**CO34 – Riverkeeper, New York’s Clean Water Advocate
(cont’d)**

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at White Plains, NY this 1st day of October, 2014.



Misti Duvall
Staff Attorney
Riverkeeper, Inc.

CO35 – Community Watersheds Clean Water Coalition

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JAMES BRYAN BACON, ESQ., P.C.
Attorney and Counselor at Law

P.O. Box 575
New Paltz, New York 12561
(845) 419-2338

October 2, 2014

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Jodi M. McDonald, Chief Regulatory Officer
Army Corps of Engineers
Jacob Javits Building
26 Federal Plaza
New York, NY 10278

*CWCWC Comments on the Draft Environmental Impact Statement
Algonquin Gas Transmission, LLC; FERC Docket No. CP14-96-000; and*

*Application for 401 Water Quality Certification;
Army Corps of Engineers Public Notice Number NAN-2014-00402-EYA*

Dear Mses. Bose and McDonald,

I represent the Community Watersheds Clean Water Coalition, Inc. (CWCWC) which on September 29, 2014 submitted comments on the Draft Environmental Impact Statement (DEIS)¹ prepared by the Federal Energy Regulatory Commission (FERC) pursuant to the National Environmental Policy Act (NEPA) concerning the proposed pipeline expansion (project) by Algonquin Gas Transmission, LLC (Algonquin).

CO35-1 | In our comments regarding cumulative impacts to the Croton Watershed associated with the proposed expansion of Algonquin's 26-inch pipeline from mile post (MP) 10.0 to 12.3 and Algonquin's Atlantic Bridge (AB) expansion, we relied on information from Algonquin's website identifying AB as consisting of a further expansion into the Croton by 4.10 miles.

¹ Application of Algonquin Gas Transmission, LLC for a Certificate of Public Convenience and Necessity authorizing the expansion of the AIM Pipeline under CP14-96.

CO35-1 See the response to comment FA3-5.

CO35 – Community Watersheds Clean Water Coalition (cont'd)

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CO35-1
(cont'd)

However, at its public information meeting on AB in Yorktown, New York, held on September 29, 2014, (beginning one half hour after the close of public comments on the AIM project), Algonquin displayed a series of maps clearly showing the AB project to consist of expanding 6.88 miles into the Croton from Stoney Street in the Town of Yorktown.

The expansion is significant because it would disturb 1.3 miles of New York State Wetland F-26 (Class II) and its protected buffer and require excavation in the Plum Brook as well as major tributaries to F-26.

Algonquin's deliberate timing of the disclosure of this 6.88 mile incursion prevented the public from commenting on this issue for the AIM DEIS. However, "[a] federal agency has a continuing duty to gather and evaluate new information relevant to the environmental impact of its actions, even after release of an EIS." *Enos v. Marsh*, 769 F.2d 1363, 1373 (9th Cir.1985). And, if "[t]here are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts," FERC must supplement the EIS. 40 C.F.R. § 1502.9(c)(1).

Thus, in assessing DEIS comments for the AIM project and Algonquin's responses, FERC and the ACOE may not ignore the expanded scope of the AB project and the cumulative impacts upon the Croton presented by both projects. CWCWC's comments clearly identified that the AIM/AB combined impacts upon the Croton were not fully considered and Algonquin's newly disclosed scope of AB serves to expand those environmental impacts in severity and degree.

In sum, it is CWCWC's position that the DEIS must be supplemented by additional environmental studies and this new review should encompass all phases of the AB project or successor projects that are in the planning stages to meet the market demand for natural gas in New England and Canada.

Respectfully,



James Bacon

Cc: FERC Service List
Jun Yan, ACOE

CO35 – Community Watersheds Clean Water Coalition (cont'd)

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CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2014 I served the herewith letter upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated: October 2, 2014.




James Bacon

Attorney for CWCWC

CO36 – Federated Conservationists of Westchester County

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FCWC
Federated Conservationists
of Westchester County

FILED
SECRETARY OF THE
COMMISSION
2014 OCT -6 A 11:45
FEDERAL ENERGY
REGULATORY COMMISSION

ORIGINAL

September 21, 2014

To Whom It May Concern:

The Federated Conservationists of Westchester County (FCWC) is a 501(c)(3) environmental and educational organization existing under the not-for-profit corporation law of New York State. Since its inception in 1965, FCWC has brought together concerned citizens, numerous community organizations, educators, and diverse professionals committed to work to preserve and rehabilitate the natural resources of Westchester County: <http://www.fcwc.org/>.

CO36-1 FCWC strongly opposes Spectra Energy's Algonquin Incremental Market project, Docket # CP14-96-000.

FCWC's concerns regarding this proposed project focus on negative environmental impacts, but also include risks to both public safety and human health.

CO36-2 Compressor station expansions proposed for Stony Point and Southeast, NY, Cromwell and Chaplin, CT and Burrillville, RI, emit pollutants and expose people, pets and wildlife to many tons of highly toxic emissions per year. Our region already fails to meet attainment levels under the Clean Air Act, and additional emissions will only exacerbate this problem. Pollutants emitted by the proposed pipelines and compressor stations include methane, mono-nitrogen oxides, volatile organic compounds (VOC's), polycyclic aromatic hydrocarbons, and carbon dioxide among others. Some of these are greenhouse gases, contributing factors to climate change. In fact, the IPCC says that methane is 72 times more potent than carbon dioxide over a 20-year period.

CO36-3 The proposed high-pressure 42" diameter pipeline will cross under the Hudson River from Stony Point in Rockland County into Westchester County. It will then intersect two proposed mega-voltage power lines just a few hundred feet from the Indian Point nuclear power plant, which stores 40 years of spent nuclear fuel rods, and is near the Ramapo and Stamford faults. FCWC is concerned about the implications of any possible accidents; for example, polluting our valuable water resources, further endangering the health of residents, and threatening the ecosystems of the Hudson River.

CO36-4

CO36-5 Furthermore, the proposed pipeline runs directly through Westchester County and municipal parkland, specifically Blue Mountain Park. This Westchester County park contains high numbers of vernal pools, sensitive wetlands essential to amphibian populations. Habitat and air quality degradation through construction and operation of the proposed pipeline will negatively affect Westchester County's rich biodiversity.

78 North Broadway, E House • White Plains, NY 10603 • Tel (914) 422-4053 • Fax (914) 289-0539 • www.FCWC.org • info@fcwc.org

CO36-1 Comment noted.

CO36-2 See the responses to comments SA4-1, SA4-9, CO7-3, and CO12-11.

CO36-3 See the responses to comments FA4-25, SA4-2, and SA7-4.

CO36-4 Comment noted.

CO36-5 Potential impacts and mitigation measures to for these resources are discussed throughout section 4 of the EIS. There would be no permanent impacts on the Blue Mountain Reservation, although some long-term impacts would occur as a result of tree clearing.

**CO36 – Federated Conservationists of Westchester County
(cont'd)**

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CO36-6 Given these factors, and many others presented by other area and national organizations, FCWC believes that FERC would be justified in denying permit for the construction of the Algonquin Incremental Market project.

Sincerely,


Carole Griffiths
FCWC Co-President

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CO36-6 Comment noted.